S. HRG. 100-722

TRUCK ACCESS

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

TRUCK ACCESS

APRIL 21, 1988

Printed for the use of the
Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

87-270 O WASHINGTON : 1988

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

5261-58

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CONTENTS

	Page
Opening statement by Senator Exon	1
Opening statement by Senator Kasten	7
Opening statement by Senator Pressler	30

LIST OF WITNESSES

Acklie, Duane, on behalf of Interstate Carriers Conference	33
Prepared statement	38
Dieleman, Gail R., tranportation manager, economics and regulation, General Mills, Inc	74
Prepared statement	75
Donohue, Thomas, president, American Trucking Assn., Inc	12
Prepared statement	15
Gluck, Hazel Frank, commissioner, New Jersey Department of Transportation	55
Herndon, George W., transportation policy analyst, Florida State Department of Transportation	63
Prepared statement	64
Letter of April 25, 1988	67
Karnes, Hon. David K., U.S. Senator from Nebraska	31
Kinch, Gordon A., corporate transportation coordinator, James River Corp	77
Landis, Richard, Associate Administrator, Office of Motor Carriers, FHA; accompanied by Kevin Heanue, Director, Office of Planning	2
Prepared statement	10
Lucas, Donald R., administrative engineer, Alabama State Highway Department; accompanied by Paul Bowlin, maintenance engineer	56
Prepared statement	59
Letter of April 22, 1988	61
Schneider, Donald, president, Schneider National	41
Prepared statement	42
Stedman, Thomas, vice president, National Private Trucking Assn	44
Prepared statement	46

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

American Automobile Assn., statement	83
Applewick, Robert A., president, Apple Lines Inc., letter	107
Bartley, James E., executive vice president, National Industrial Transportation League, letter	99
Durham, R. V., director, department of safety and health, International Brotherhood of Teamsters, statement	84
Harkins, James C., executive director, Regular Common Carrier Conference, statement	86
Hoffman, Kathleen F., Washington representative, California Department of Transportation, letter	104
Irions, Charles C., president, AMC, letter	102
Levine, Leonard W., commissioner, Minnesota Department of Transportation	90
Loftis, Val, licensing consultant, Werner Enterprises, Inc., letter	100
National Association of Governors' Highway Safety Representatives, statement	91
Sandler, Ross, commissioner, New York City Department of Transportation, statement	95
Serianni, Nick, director of Federal programs, Florida Department of Transportation, letter	101
Turner, J. Terry, executive director, Interstate Carriers Conference, statement	96
Wingerter, Eugene J., executive director and CEO, National Solid Wastes Management Assn., letter	110

TRUCK ACCESS

THURSDAY, APRIL 21, 1988

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The subcommittee met at 9:33 a.m. in Room SR-253, Russell Senate Office Building, Hon. J. James Exon (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Sheryl Webber Washington, professional staff member; Robert Holleyman, staff counsel; and Alan Maness, minority staff counsel.

OPENING STATEMENT BY SENATOR EXON

Senator EXON. The subcommittee will please come to order.

This morning the Surface Transportation Subcommittee turns its attention to the problem of truck access. In particular, this hearing will focus on the issue of what constitutes reasonable access from the interstate highways and designated primary highways to terminals and facilities for food, fuel, repairs and rest by those twin trailers and tractor semitrailers presently allowed to operate on these highways.

The truck access problem dates back to the Surface Transportation Assistance Act of 1972, generally referred to as STAA. The act established for the first time Federal vehicle length provisions by requiring the states to allow 102 inch wide, 28 foot twin trailer combinations and tractor semitrailer units with 48 foot semitrailers to operate on the interstate highways and on designated primary highway systems.

In addition, the act requires that the vehicles receive reasonable access from those highways to terminals and to facilities for food, fuel, repairs and rest.

The act, however, did not provide definitions of those key phrases, "reasonable access" and "terminals". As one might expect, the states differ in their interpretations of these terms. As a result, manufacturers, shippers and carriers believe that they have not achieved the full measure of benefits which they expected to receive in exchange for the 1982 tax increases on the industry.

This is a view that is shared by the Chairman, while realizing there are some questions as to how to correct it.

Currently, 14 states provide STAA-approved vehicles with unrestricted access to their State and local roads. The remaining 36 States restrict access in some way, with industry figures showing

that 17 States are the ones contributing significantly to this problem.

The unnecessary confusion and complexity resulting from these widely varying State restrictions on interstate carriers places a significant burden on interstate commerce.

I sought to address and elevate the debate on this problem last June, when I introduced S. 1391 to amend the 1982 act by defining "reasonable access" and "terminals". This morning I hope to further explore the problems faced by the trucking industry, those who manufacture and ship goods, and the Federal and State highway transportation officials.

We will hear testimony from Mr. Richard Landis, Associate Administrator of the Office of Motor Carriers at the Federal Highway Administration; by Mr. Tom Donohue, President of the American Trucking Associations; and three panels, the first of which represents the trucking industry.

This panel includes Mr. Duane Acklie, President and Chief Executive Officer of Crete Carrier of Lincoln, Nebraska, a motor carriers corporation operating in all of the 48 continental states. Mr. Acklie is well known to the Chairman for a long, long time, and I consider him to be an expert in this area. I personally invited him to be one of those who will testify on this subject this morning.

The second panel includes State highway transportation officials, and the third is a panel of shippers.

Let me express my thanks to the witnesses for taking the time to testify before this subcommittee. I therefore at this time welcome very much, in fact, all of the witnesses for coming, and at this time we will proceed with the first panel, Mr. Richard Landis, Associate Administrator, Office of Motor Carriers, Federal Highway Administration; and Mr. Thomas Donohue, President of the American Trucking Associations.

Would you both come forward, please?

Mr. Donohue will be following you, Mr. Landis. We are very pleased that you are here this morning, and please proceed in any fashion you see fit. The usual procedure, as you know, is for your full statement to be accepted for the record. Without objection, we will do that at this time. I would ask, if possible, if you would summarize in any fashion that you see fit at this time.

Thank you.

STATEMENT OF RICHARD LANDIS, ASSOCIATE ADMINISTRATOR, OFFICE OF MOTOR CARRIERS, FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY KEVIN HEANUE, DIRECTOR, OFFICE OF PLANNING, FEDERAL HIGHWAY ADMINISTRATION

Mr. LANDIS. Mr. Chairman, I would be more than happy to do that. You do have my testimony, and I would just like to take a few minutes to highlight a few of the points.

First of all, I am Dick Landis from the Office of Motor Carriers. With me this morning is Kevin Heanue. Mr. Heanue is the Director of the Office of Planning at the Federal Highway Administration. We are pleased to be here and glad that you asked us to discuss reasonable access for large trucks. What we are dealing with,

as you mentioned, is the Surface Transportation Assistance Act of 1982 as it was amended by the Tandem Truck Safety Act of 1984.

Now, there were a number of things required in that act. First of all was the establishment of a national network, a highway network for larger defined vehicles. The Federal Highway Administrator undertook that task and in 1984 did establish a national network.

That network has gone through some revisions over that time, and I suspect it will continue to be revised from time to time. Essentially, the network itself is not a problem today. There has been very little controversy in general associated with that national network. Reasonable access, however, certainly has been much more controversial.

FHWA regulatory action to date has really relied upon the states to establish the provisions that were anticipated in the original act. FHWA clearly stated that its intent through the process was to exercise a monitoring process in oversight, and this made sense at the time because of the long-established relationship that existed between the states and the Federal Highway Administration.

It also was our opinion at that time that the states certainly had the detailed data that was needed to make decisions surrounding access.

What we have ended up today with are a few problems, and I want to underline the word "few". We estimate that overly restrictive access problems are really limited to no more than eight states. These are really the major problems, and those are primarily in the east. The west does not seem to be a major problem in terms of access.

We have taken a number of approaches. One of our major approaches has been to encourage the states and the trucking industry to work with the State Motor Carrier Advisory Committees that were established in line with recommendations that were brought forth by the National Governors' Association.

Most of the states involved in question now have those Motor Carrier Advisory Committees. That has worked, by the way, in a number of states. There has been success or at least movement toward success by using that process.

Not long ago we received a petition from the National Industrial Transportation League. That petition asked us to do a number of things related to access. Generally, we agreed that the questions raised by the NIT League were certainly issues that we needed to deal with.

We did not agree with the asking for interim rules which would offer immediate relief because it simply was not supported by the data; but we did proceed very quickly after that petition with an advance notice of propose rulemaking that laid those questions on the table. That was issued in January 1987. We have had very good response to that.

Since then, we have been moving forward through that process, really, until just recently when Congress got involved in the process and initiated the TRB study that we are working with and that you mentioned.

It is our intent and we will proceed, however, with an NPRM, which is the next stage in the administrative process, to define

"reasonable access" and to define "terminals". That is now in draft within the Department and will be coming. We just cannot go final in terms of rules until the TRB report is completed, and we expect that in July of 1989.

It is our intent to have that rulemaking process and the TRB work link very closely together. Mr. Heanue will fill in that gap because he has been working with that committee as it moves along.

What we have are several laws that have been implemented. The implementation of those laws has been the result of an awful lot of hard work at FHWA and, I think, an awful lot of good work by most of the states. The problems are limited. Solutions, I think, are at hand. With our rule and the TRB study coming together, I think solutions are evident at the end.

I would like to take something that our former administrator said last fall, and I think he quite eloquently addressed the House oversight hearing. He talked about the need to expand access where it was being restricted based upon emotion and not upon fact.

We are continuing to do that process. But he also very clearly said that he would not want to impede the ability of the states to deny access based upon provable safety factors. I think those are two very important aspects of this rule.

Mr. Chairman, I can assure you that we are still headed in that direction. We are continuing and will continue to work with the states and the industry to ultimately provide reasonable access.

With that, Mr. Heanue and I would gladly answer any questions you may have.

Senator EXON. Mr. Landis, thank you very much. I emphasize once again I thank you for coming here this morning.

I, for one, think the problem is more complicated and has been delayed much longer than you, as I take it from your statement, believe to be the case.

You said that the solutions are at hand. Now, if I felt that the solutions were at hand, I would not have called this hearing today. So I think maybe that is a somewhat overly optimistic view of it, but I recognize the right that you have to take your position. You may indeed be right, and I hope you are.

We on the committee have felt for a long, long time that this should receive more attention. We on the Commerce Committee have had difficulty with the Interstate Commerce Commission on their implementation of the Staggers Act.

Good, well-meaning people can differ on what was intended in an act, but I think we have pretty well established that in the case of the Interstate Commerce Commission the majority of that commission has failed to respond as the Congress intended when the Staggers Act was written. I say that basically after reading and hearing the statements of those who were the original key sponsors of that act.

So we are down to one of those classic discussions between the Executive and Legislative Branches as to how the executive carries out the intent of the legislative branch. Certainly, I think no one would quarrel whatsoever with what I think is the very legitimate concern of you and your predecessors in this complicated area. We

certainly do not want to impair any legitimate safety standards that the states have the option to exercise, which gets us, of course, to the key difficulty at hand, what is reasonable.

Mr. LANDIS. That is right.

Senator EXON. How good a job has the administration done in implementing the intent and the commitments that I think were made when the act was originally passed.

Just to clarify for the record, would you give us the eight states that you feel have been the ones that are causing us the most problem in this area at this time?

Mr. HEANUE. We do not have a hard definition and a really hard list, but if you are asking us to describe eight, I think the two states that we hear the most concern about from the industry are Pennsylvania and Georgia. I guess next in order of concern would be New York, Florida and Alabama. Then on specific issues, it is Connecticut, Massachusetts and New Jersey. The latter three are primarily just restricted to doubles. They have no concern over the 48-foot semitrailer.

That would be our list of eight states.

Senator EXON. Well, I certainly have heard about Pennsylvania and Georgia. They are the two states that are brought up continually.

What is the opinion of the administrator with regard to the attitude of Pennsylvania and Georgia? Do you think that they have been forthcoming? Do you think they have been cooperative in working with you on developing reasonable safety standards?

While I am saying that, I am not saying that Pennsylvania and Georgia have been guilty as charged, but there has been some indication and some allegations that the Chairman has heard that, indeed, they have gone far beyond due standards. They are out on witch hunts in several areas.

I would like to ask the administrator to comment if he could for me so that we can get a handle on the problem.

How do you view from your perspective the reactions of those two states, Pennsylvania and Georgia, in this area?

Mr. LANDIS. Again, Mr. Chairman, we have taken the approach up to this point that the states can act responsibly and would act responsibly, and that is based on a lot of experience.

I think we are down to a point now where there are serious questions, and it may be the debate that you talked about a moment ago on responsible action.

We are at a point now where our rulemaking is crafted to address those specific issues, and when it is released I am sure it will track with TRB and their study to address those questions and bring resolution to it.

Senator EXON. I would just tell you, Mr. Landis, as a former governor I am very much a states righter, and I think that my record will indicate that. We are back to the age old problem and discussion of billions and billions of dollars that we have spent on highways, most of which would not be there were it not for the terrible, big bad Federal Government which is always trying to do things to hurt the individual states and the economy of the nation as a whole.

If the Federal Government had not gone ahead with their highway program both for primary and secondary roads and for, certainly, the interstate system, we would be in sad shape, indeed, I would suggest today as far as interstate commerce is concerned. Interstate commerce is what we have got to keep featuring on.

As a states righter, I simply say that if we are going to have interstate commerce laws that are designed primarily to protect the public and the free movement of goods, then we cannot have under the guise of states rights one or two large states, whether they are Pennsylvania or Georgia or somewhere else, thumbing their nose at the intent of the Congress and the laws of this land.

Let me press you a little bit further on this. In your investigations or relationship with Pennsylvania or Georgia or the other seven or eight states that you have identified in your testimony as the ones causing the most controversy, has in any of those cases there been any legitimate indication where you could say they have not been cooperative and are more interested in collecting fines than carrying out Federal legislation?

Mr. HEANUE. I might just comment that in Pennsylvania the State reasonable access rules are under injunction so that they are enjoined in several respects right now. There have been recent and very productive meetings between State officials and the State and national motor carrier representatives. There are indications that progress is being made in Pennsylvania.

Georgia's approach is that it has very seriously deficient highways, with many safety problems. They have brought in outside safety experts, and their desire is to build their way out of it. They have a very large new program of four-lane highways, and as they complete each major project they are opening it to larger vehicles. That is the Georgia approach.

In most of the other states on our list, there have been recent and productive meetings between industry and the state. No state has retrenched on the access issue, that I am aware of. Progress is generally being made.

Senator EXON. Do you feel, gentlemen, in your investigation of the various complaints that have been brought to your attention that Pennsylvania, Georgia and the others have had generally equal, nonselective enforcement of the problems that have been experienced in those states in the general area of access, or at least in some cases have they gone to selective enforcement or actions?

Mr. HEANUE. I am not aware of selective enforcement, although admittedly it is a much more serious problem for the trucker, the independent operating in interstate commerce, who may only go into a state rarely. He does not know the laws of any specific state. The local carriers know the rules and generally follow them.

Senator EXON. I think with the answer to that question you anticipated my next question, which is this.

Have you found that any of the states mentioned here this morning have seen fit to have a different set of interpretation, warrants, citations, or harassments, with regard to out-of-state carriers as compared with the carriers from their own states?

Mr. HEANUE. Not on size issues, that I am aware of. I think there is that concern over tax policy but not on size issues.

Senator EXON. I think it is easy to say that a trucking company and his drivers in one state know the State laws and, therefore, always abide by them, and then the people coming in from out of state do not. I suspect that there may be some very legitimate provable points in that area.

However, I have been concerned. I am not convinced but I have been concerned about the fact that there has been selective enforcement in some areas. Certainly that is something that we have to watch.

I am very happy to welcome the ranking member of the Surface Transportation Subcommittee, Senator Kasten. I would be glad to recognize him for any opening statement that he has at this time and would ask that he proceed into his first round of questions.

OPENING STATEMENT BY SENATOR KASTEN

Senator KASTEN. Mr. Chairman, thank you for calling this hearing on what I think is a very important issue, that of truck access.

This is a timely hearing because the access issue is currently being debated in a number of different forums, including ours. The National Academy of Sciences is conducting a study of truck access. The Department of Transportation is beginning a rulemaking on this same issue, and there is also Congressional interest in this issue, as evidenced by your bill, S. 1391.

Resolving this debate is going to require careful balancing of competing interests. On the one hand, some local communities are concerned about safety and road maintenance. On the other hand, the trucking industry and the shipping community point out that larger trucks increase productivity, conserve fuel and reduce the cost of goods.

We will hear today from the Department of Transportation, the trucking industry, State government officials, and also from shippers. I am especially pleased that Don Schneider, the President of Schneider National in Green Bay, Wisconsin, will testify today. He is a very able trucking industry executive whom I have had the pleasure of knowing and working with for many years.

So, Mr. Chairman, I look forward to today's exploration of the truck access issue with you and also our witnesses. I have no questions for this panel. I am aware of the fact that you have had the opportunity to visit with them and to ask them some questions.

This is not really a question. I would just like to ask you to comment on what kind of coordination, Mr. Landis, is going on with these different access inquires—we have this same debate taking place in three, four or maybe more different places in our government and also the National Academy.

Are you all coordinating, and are we going to end up with a bunch of different kinds of reports from different kinds of places that we then have to kind of go back and put together?

Is there any kind of an effort being made to at least coordinate data bases and other kinds of things with the various studies that I cited in my opening remarks?

Mr. LANDIS. Senator Kasten, I think your observation is excellent that there are a number of things occurring simultaneously. Maybe the most important of those right now is the work that is being

done by the Transportation Research Board. I am glad you asked the question because before we got done I wanted to share with you really what we are sharing with TRB and how we expect the result of that to end up in July.

Mr. Heanue has spent a good deal of time with that committee that has been put together. By the way, it is an excellent committee, and we are pleased with the make-up. I guess I would ask Kevin to share with you the steps that we have taken now with TRB itself.

Mr. HEANUE. We have shared with them our full data base from the advance notice of proposed rulemaking. We have told them we will share the results of the responses to the notice of proposed rulemaking. We met with them, and I personally briefed the committee at their initial meeting several weeks ago.

We have recently completed a questionnaire on the network and access issues. We are turning over to them that new file.

More importantly, I think when we publish our notice of proposed rulemaking, that should become a strawman for their evaluation of the access issue. They will have the advantage of the docket. We will have the advantage of the docket. They will publish a report, and then we can hopefully very quickly go to final rule on the issue, having the benefit of their deliberations and our own proposal on the street.

Mr. LANDIS. We have actually ended up, I think, with an advantage that certainly we did not ask for. I originally had hoped that we would not have to delay a final rule on our part because we were prepared to move quicker than we are ending up doing it now; but maybe we will end up with the advantage of having this kind of a study, to take a look at it from a good common sense approach, the importance being, as you point out, Senator, that we have to coordinate closely with that committee if we have any expectation in July when they finish their work that we will be ready to finish ours and move forward very quickly.

There is nothing that I can see that would prevent that from happening at this point.

Senator KASTEN. The other thing that is important is that we do not have a bunch of different opinions as to the base of information and data. There either is access or there is not. There are problems, or there are not. We have to build, and we do not want a whole lot of different kinds of varying opinions.

Mr. LANDIS. Frankly, I think that is going to be a difficult task because there are so many varying views on it.

I know from our own experience in the ANPRM, the generated comments, the views are very wide.

Senator KASTEN. Views are wide, but the facts ought to be certain.

Mr. LANDIS. That I would agree with you.

Senator KASTEN. That is the problem that we have in part of this area. It is why the distinguished Senator from Nebraska has introduced his legislation. We have problems here, and we have different people who will testify with basically different facts, or at least they will talk about different facts.

What we have to know is exactly what is going on. The basic facts have to be more sound than they have been for us.

Mr. HEANUE. Recently the industry has used the same numbers as we do of six to eight problem states. I think there is a consensus on that, there are serious problems and restrictions in about that number of states.

Senator KASTEN. Mr. Chairman, thank you.

Senator EXON. Senator Kasten, thank you very much. We appreciate your help and assistance in this whole matter that we have been continuing to wrestle with.

I had previously indicated to all the witnesses that we appreciate their coming here because, as I indicated in my opening statement, there are some pros and cons on this issue. It is not all black, it is not all white, and I do not contend that it is.

It is something that our subcommittee has been very much concerned about, and we do not think things are working as well as they should in this particular area.

I have one more question that I would like to propose to you, Mr. Landis.

In response to the petition by the National Industrial Transportation League, you indicated that the FHWA published an advanced notice of proposed rulemaking on January 5, 1987 soliciting comments on whether revisions of the FHWA's reasonable access provisions were necessary and, if so, what the changes should be.

What we are finding as a result of this action? Secondly, when do you think we can expect DOT to issue a notice on these proposed rulemakings? If possible, I would like to have you respond not with when we get, what and if, but whether you think this will be forthcoming this month or next month or six months from now or a year from now.

Mr. LANDIS. Mr. Chairman, I believe that the rule is very close at hand. I cannot tell you that it is next week or two weeks from now or a month from now, but I think is really very close at hand.

The comments that we have received have given us an awful lot of direction in crafting a rule that I think makes a good common sense approach to the problem. It is one, like everything else, that has sufficient controversy to it, that is a fairly extensively reviewed rule when done.

It has been moving along. It is certainly not being held back for any reason that I am aware of.

In reference to the comments to the ANPRM, I will tell you what my observation is and let Kevin give you his. Mine is that the industry almost unanimously suggests that we establish very specific rules related to access.

On the other hand, the states and some of the safety associations almost unanimously say leave it alone and leave it as a state's call.

With that, let me ask Kevin. He is more familiar with the docket in detail than I.

Mr. HEANUE. I think, speaking broadly, the decision to move ahead with the notice of proposed rulemaking is based on the conclusion that there is need for more uniformity and that there is need for preemption to achieve it. That conclusion was reached very reluctantly.

We have tried to structure a proposal that will limit preemption but still achieve the results of more uniform national standards for reasonable access and terminal definition so that this trucker who

is traveling in a state that he does not travel in very often will have some sense of what his rights are in terms of access when he arrives at that state.

Senator EXON. Do you have any further questions, Senator Kasten?

Gentlemen, I think that you probably have gotten the impression that we think things are not moving as quickly as they should. That does not mean that speed always solves all the problems in the world.

Before I dismiss you I would just like to drive home once again the fact that we think this administration has been entirely too slow in moving in this area. We will be looking forward with keen interest to when and if the procedures that you outlined, Mr. Landis, could be forthcoming in the near future. We think that is critically important.

I just wish to emphasize once again that we are concerned when we hear the State of Georgia, for example, I believe you testified, says that it is concerned about safety problems. That is uppermost in everyone's mind.

If it is safety problems, then it is hard for me to imagine why a progressive, fast-growing state like Georgia that holds itself as a model for the nation in industrial expansion would not have the foresight to make the necessary safety changes.

That may be particularly difficult for the State of Georgia. It is hard for me to imagine, though, how the State of Georgia could be significantly different than the other states, most of whom seem to have lived with the Federal legislation very well.

That is the dilemma that we are in, and I hope that you will keep pressing on this matter because I think it is certainly a dilemma from the standpoint of the consuming public if they are being adversely affected, so long as reasonable safety standards are enforced, with having interruption of the free flow of interstate commerce.

Notwithstanding the fact, as I said earlier, I think the states do have some right in this area so long as the states do not use that right in a measure not envisioned by the Federal legislation.

With that, I thank you very much for being here, and thank you both for your testimony. You are excused.

Mr. LANDIS. Thank you very much, Mr. Chairman.

[The statement follows:]

STATEMENT OF RICHARD P. LANDIS, ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS, FEDERAL HIGHWAY ADMINISTRATION, DOT

Mr. Chairman and members of the Subcommittee, I am Richard P. Landis, Associate Administrator for Motor Carriers in the Federal Highway Administration (FHWA). With me is Kevin E. Heanue, Director of FHWA's Office of Planning. We are pleased to be here today to discuss reasonable access for large trucks to points off of the nation's major highway systems.

The provisions of the Surface Transportation Assistance Act of 1982 (STAA) have extended the privilege of operating on the interstate system and other designated primary system highways to certain enumerated longer and wider commercial vehicles. These routes constitute a system referred to as the "National Network." In most States, the availability of routes for larger trucks goes considerably beyond the core formed by the National Network by virtue of State legislative authority.

However, in a few States (primarily on the East Coast), the National Network has been restricted, usually as a result of good faith concerns over safety. The most

recent comprehensive study on the subject of twin trailer trucks, issued in 1986 as Special Report 211 by the Transportation Research Board (TRB) of the National Research Council, concludes, in discussing the safety consequences of doubles, as follows: "The increased use of twins will have little overall effect on highway safety because a reduction in miles of truck travel will approximately offset the small possible increase in accident involvement per mile traveled."

The STAA of 1982, as amended by the Tandem Truck Safety Act of 1984, also provides larger trucks with "reasonable access" between the National Network and terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers and 28-foot semi-trailers operating singly.

The National Network was identified by FHWA rulemaking in June of 1984 (49 FR 23302, June 5, 1984). The identification of routes on the Network is not considered a major issue at this point. Reasonable access (i.e., where larger trucks can travel *off* the National Network), however, has been an issue of considerable interest and controversy. Access to *all* points of loading and unloading, in particular, generates the most concern.

The regulation implementing the STAA allows the States to establish their own reasonable access provisions. However, the FHWA clearly announced its intent to monitor the States' reasonable access policies. This position was an outgrowth of the historical FHWA/State relationship and the confidence that the States would respond in a forthright manner to commercial needs. In any case, the law also provides for either injunctive relief or rulemaking to correct intractable problems.

Although State reasonable access policies vary considerable, they tend to fall into general categories. In States with extensive systems of available routes (primarily Western States) where larger trucks can travel practically anywhere they desire, reasonable access is not an issue. In States with less extensive systems, reasonable access provisions vary from liberal access to highly restrictive. FHWA estimates that overly restrictive reasonable access provisions represent a significant problem to the trucking industry in just six to eight States. Hence, while we have some problems, we do not have a national problem.

FHWA's administration of the law with respect to the National Network and reasonable access has been very active and responsive to concerns raised. Over 25 separate actions on these two provisions have been published in the Federal Register. There has been considerable litigation involving both FHWA and the States. On an almost daily basis, we are involved with industry and the States trying to resolve problems equitably and informally. The Department encourages the States, together with the trucking industry to use State Motor Carrier Advisory Committees to discuss and resolve access issues. Through the National Governors' Association, the Department has encouraged the creation of such State advisory committees in 40 States including all of the 6 to 8 so-called problem States. These committees have proven to be effective in identifying and solving truck-related problems, including access problems.

On August 28, 1986, the National Industrial Transportation League (NIT League), an organization of shippers and shipper groups, petitioned FHWA to be more prescriptive to the States in the provisions of its reasonable access regulations. The NIT League suggested changes that would both set minimum national standards for reasonable access and define a "terminal." The changes proposed by the NIT League would expand truck access for larger trucks in States with less extensive truck route systems.

In response to the NIT League petition, FHWA published an advance notice of proposed rulemaking on January 5, 1987, soliciting comments from interested parties to determine whether revisions to FHWA's reasonable access provisions were necessary and, if so, what they should be.

There has been continuing congressional interest in this area of reasonable access. The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) mandated a 30-month study by the Transportation Research Board to study the issue. Also, several bills were introduced in 1987 to define "reasonable access" and "terminal" statutorily.

Most recently, the December 1987 Conference Report for the 1988 DOT Appropriations Act provided direction to FHWA on our reasonable access rulemaking. The Committee Report directs the Department to refrain from issuing a final rule on reasonable access until the TRB study report is completed. However, this language does not preclude DOT from issuing an NPRM and soliciting comments. We intend to issue such a notice upon clearance by OMB and the comments generated will be provided to TRB to assist it in conducting its study. The timetable for the TRB study was accelerated and the report is now due within 18 months. The TRB report is expected to be completed by July 1, 1989. DOT will give substantial weight to the

TRB report and will make safety the foremost consideration in the rulemaking process.

These two correlative activities, the TRB study and the FHWA rulemaking, will provide substantive guidance on the access needs of industry and the policy of the States. Therefore, I believe that any legislative action on access would be premature at this time.

I would like to point out that in our rulemaking efforts we recognize the fine work of most States and believe that any preemption should be limited to those States with overly restrictive policies. In addition, we believe it is most important not to preempt the right and duty of any State to restrict access when a specific safety situation exists.

In the interim, we will continue to work with industry and the States to overcome as many access problems as we can.

This concludes my statement. Mr. Heanue and I will be pleased to answer your questions.

Senator EXON. Next we will call on Mr. Thomas Donohue, President of the American Trucking Associations.

Mr. Donohue, would you please come forward? Thank you. We are always glad to have you in front of the subcommittee and the committee as a whole, where you have been on many occasions.

We will follow the usual procedure of accepting your witness statement in toto for the record without objection, and we would ask you to please summarize at this time.

STATEMENT OF THOMAS DONOHUE, PRESIDENT, AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. DONOHUE. Thank you very much, Mr. Chairman. Good morning.

Today, more than five years after Congress under the leadership of this committee passed the Surface Transportation Assistance Act of 1982 which promised greater productivity for the trucking industry in exchange for substantially higher taxes, that promise remains unfulfilled.

Some 17 states continue to prevent carriers from reaching many shippers and receivers of freight by restricting access and limiting terminal definitions for STAA-approved vehicles. There is a list of those states in the back of my formal statement. As you will find, some are more significant than others in their limitation.

Further, limited access in terminal definitions has been established without regard to specific safety evidence and at great expense to shippers and carriers alike.

It seems to us that it is time for Congress to send a clear signal to the states and, perhaps, more particularly to the DOT that five years without adequate action is long enough. S. 1391 will do so without hindering the states from restricting the operation of any of these vehicles for legitimate safety reasons.

I am sure you know that twin trailers or a double combination such as those authorized by the STAA have been operating on public highways in many states for more than 40 years and have compiled a fine safety record. As a matter of fact, there have been a number of studies in recent years that show them to be quite safe.

Longer, wider semitrailers have also compiled an outstanding safety record since 1982. We know of no instance where insurance companies have increased rates for the 48/102 trailers compared with the less productive 45/96 trailers. By the way, this is in a

period of time that our insurance rates have gone way up and that the insurance companies have become very restrictive on other operations.

States will continue to have full authority under the new bill over the STAA-authorized vehicles to inspect equipment violations, to enforce full compliance with weight regulations, and to keep unsafe trucks off the highways.

The only impact of the bill on the safety programs of the states will be to enable states to concentrate their safety efforts on those activities which have a real impact on overall highway safety, such as the Motor Carrier Assistance Program and speed enforcement.

Simply stated, this bill puts the onus on the state to comply with common sense analysis and a definition of why they would exclude trucks and does not put the burden on small motor carriers to spend lots of money, time and paperwork trying to get access to a place that we have already agreed to have access to.

Now, states have restricted access by designating very few primary highway miles for the national network, so there are few roads from which access can be sought. For example, six states have designated only 15 percent or less of their primary highway mileage as compared with the national average of 50 percent: Alabama, South Carolina, Pennsylvania, Georgia, New York and Vermont specifically.

Some states restrict access by requiring route permits to leave the national network or allow access for only, say, 1,500 feet, such as in New York, or two-tenths of a mile, such as Pennsylvania, without route approval. Eleven other states sharply restrict access.

Only two or three of these states which restrict access to preapproved routes post signs. So if you come in from Nebraska to Pennsylvania, you have no idea whether it is an approved or unapproved route unless you read the 84-page booklet, which contains some material which I have summarized in the back of my statement that some of the lawyers on my staff and your committee could not figure out either.

Now, Mr. Chairman, to go beyond two-tenths of a mile in Pennsylvania, truckers have to decipher this very complicated material, and I suggest it is just not reasonable. The Pennsylvania access list is divided into seven different route systems, each with a different length or width restriction. I just think that when you start looking at it from the point of view of trying to deliver the goods of the nation's economy, this is not the will of this committee or the Congress.

I must say, however, that in recent weeks we have had some meetings with the Secretary of Transportation, Mr. Yerusalim, in Pennsylvania, and we are starting to make some progress. We are getting some of those routes opened up, and we are having meetings with shippers and carriers to try to expand the process.

Now, your bill, Mr. Chairman, defines the terms "reasonable access" and "terminal" to allow these productive trucks to provide the service to the shippers which was expected in the STAA in 1982. In these and other states, local authorities will not be able to restrict streets just by definition.

We do not believe that Congress intended that the states should prevent these vehicles from operating on roads with lane widths

less than 12 feet or on roads that are congested or on interstate system roads which the state labels as a parkway for their own convenience. Yet, State and local authorities are doing just that.

Since 1984, more than 75 percent of all the trailers built in the United States have been these approved units, 48/102s. You can imagine what will happen in the next five to seven years. States that continue to restrict us are liable to be in a position of not having their goods delivered.

Mr. Chairman, I have just about another minute.

Senator EXON. You can go right ahead, Mr. Donohue.

Mr. DONOHUE. Thank you.

The trucking industry is committed to safety. You know that. We have demonstrated it in terms of what we have done on the driver's license, the commercial zones, drug testing, roadside inspections. We have taken the lead on that, and this bill and our effort in access is not meant in any way to limit the commitment by all to safety on the roads. We need to understand that with safety goes the essentiality of this industry to our worldwide competitive position and to the economic growth and health of our states, our companies and our citizens.

Your bill defines the term "reasonable access" to allow the productive trucks to provide just that service. Action by your committee is needed now because enactment of this bill will ensure that we have a more uniform, more productive and more efficient transportation system.

With that, I would like to summarize, Mr. Chairman.

In 1982, Congress made a deal. I do not like to use the word "deal", but that is exactly what it was, a deal to increase the productivity of our industry in exchange for substantially higher taxes paid by trucking.

Then Secretary of Transportation Drew Lewis said, and I quote, "changes to Federal rules governing truck size and weight limits have always been viewed as inseparable from a fair and equitable highway user charge structure."

Since 1982, the industry has paid more than $12 billion in increased Federal user fees. We have kept our part of the agreement; 17 states have not kept theirs. These 17 states have gone on to collect their share of the money without providing the full commitment of the STAA arrangement, and the DOT and the FHWA has not done its share to enforce that.

The time has come to require them to act. I heard your discussion with Mr. Landis. If you want to know where the rulemaking is, I think it is time for another Easter egg hunt. We do not know whether it is in DOT. We do not know whether it is in FHWA. We do not know whether it is in the Office of Management and Budget. Depending on who you ask and what day you ask them, you get a totally different feeling of where it is.

I will buy lunch for anybody who can tell us where it is right now, today. It does not seem that it should be very complicated to find that out, does it?

It is time to put this committee and the Congress back in charge of the agreement which we made and to be sure that we get the full and fair adjudication of that. It is time to demand equity.

I would like to end, Mr. Chairman, by calling your attention to a front page from a weekly magazine, Travel Weekly, which I will request be put in the record. It says in the headline that the DOT and the states clash over ad guidelines.

Sounds very important. DOT is willing to conflict with the states on a matter of how we advertise airline services, but they will not conflict with the states on matters that are absolutely essential to a five-year-old arrangement with an essential industry in this country that is critical to our national economy. I think this is a two-standard approach that allows them on one hand to talk out of the side of their mouth about federalism and on the other hand to duck this issue because it is politically painful.

Thank you very much, Mr. Chairman.

Senator EXON. Mr. Donohue, thank you very much.

Without objection, we are very pleased to accept the article that you just made reference to. If you would leave a copy of that with us, we will put it in the record.

I have several questions, but for the sake of conserving time I yield now to my friend and colleague, the ranking member, Senator Kasten.

Mr. DONOHUE. Thank you, Senator.

[The statement and articles follow:]

STATEMENT OF THE AMERICAN TRUCKING ASSOCIATIONS

I. INTRODUCTION

I am Thomas J. Donohue, President and Chief Executive Officer of the American Trucking Associations, Inc. (ATA). I welcome the opportunity today to present the view of the trucking industry on S.1391 to amend the Surface Transportation Assistance Act of 1982 (STAA). We believe that passage of S. 1391 will:

Fulfill Congress' 1982 promise of greater productivity for the trucking industry in exchange for substantially higher highway taxes;

Establish reasonable uniform standards for the states to follow in providing access to STAA approved trucks;

Allow consumers to receive the full benefits of more productive and efficient truck service;

Allow the states to retain full responsibility and control over highway safety; and

Increase the ability of law enforcement agencies to establish uniform and fair access standards across state lines.

My statement is on behalf of the ATA, the national trade association of the trucking industry. Through its 51 affiliated trucking associations located in every state and the District of Columbia, 10 affiliated conferences and several thousand motor carrier members, ATA represents every type and class motor carrier in the Nation: for-hire and private; regulated and exempt.

The trucking industry is composed of more than 260,000 American firms, and accounts for 77% of all freight transportation revenues in this country. The industry employs 7.4 million Americans and generates annual revenues in excess of $200 billion. Each year 5.4 million trucks log more than 131 billion miles with an overall safety record that is almost twice as good as that for automobiles.

In order to provide all that freight service in the most productive and efficient trucks, the industry must be able to reach terminals and shippers. That's why reasonable access for STAA approved vehicles is critical to the trucking industry. Without access to terminals and shippers, trucks stop. "Without Trucks, America Stops."

The Surface Transportation Assistance Act of 1982 is known primarily for the 5¢ increase in fuel taxes which doubled the size of the Federal Highway program. Concomitantly, the industry's highway tax bill increased by $2.4 billion, or from $1,768 to $4,138 for a 5 axle tractor semitrailer combination. On a per truck basis, the annual highway tax more than doubled. In exchange for these higher taxes Congress:

Increased truck width limits from 96″ to 102″;

Required all states to allow 48′ long semitrailers on the Interstate System and a designated primary system, with no limit on the overall length of the combination of tractor and semitrailer;

Required that all states must allow twin trailers (doubles) with two 28′ semitrailers to be operated on the same network;

Prohibited states from setting an overall combination length on these units and grandfathered longer semitrailers if these units were operating prior to 1982;

Required the states to allow reasonable access to and from the designated system to terminals and for food, fuel, repairs and rest; and

Specified that household goods carriers could operate these combinations to points of loading and unloading. Subsequently, in the Tandem Truck Safety Act (TTSA) of 1984, a similar provision was enacted in regard to a single 28′ (or 28½′) semitrailer.

The majority of the states moved expeditiously to allow the operation of the STAA approved vehicles on a reasonably broad designated highway system and with reasonable access. From the outset, however, several states resisted permitting the operation of these units, and when required to do so, tightly limited their operation. Today, more than five years after passage of the Act, it remains impossible to reach many shippers and receivers of frieght in STAA authorized vehicles in these states. Further, these states generally have no signs, markers or maps showing the routes which are approved for STAA vehicles. As a consequence, many carriers are receiving tickets for overlength and overwidth operation on highways which they did not know were not authorized for STAA vehicles.

It is time for the Congress to Act to require these states to fulfill the promise made to the trucking industry in 1982. S. 1391 will provide a clear signal to the States and to DOT that five years with little action is long enough. At the same time, S. 1391 will continue to allow states to deny access on roads where there are clear safety problems or where roadway geometrics will not accomodate STAA vehicles. The trucking industry has accepted restriction of combination vehicles for highway construction and resconstruction needs. State safety inspections and expanded weighing programs have our strong support. ATA is totally committed to improved safety on our nation's highways. We believe that S. 1391 will help to foster that safety objective.

II. THE PROBLEM WITH TODAY'S SITUATION

States that have embraced the operation of STAA vehicles have designated most of their primary highways as part of the National Network. This allows any STAA vehicle to use that route. In addition, they have permitted STAA trucks to exit the designated system and travel several miles for access to the shipper. This creates a flexible, workable system. The states which have resisted the operation of STAA vehicles have done so primarily through three methods:

A very small designated primary highway system;

Restrictive definition of terminal;

Restrictive definition of reasonable access.

The sections which follow describe the actions of the state and Department of Transportation in each of these areas, and the efforts which the trucking industry has made to resolve these problems in the states or through DOT regulation.

Designated highways

The designated network of Interstate and primary highways for STAA vehicles was not formally established until nearly eighteen months after passage of the Act. This was due at least in part to the fact that several states sued the Federal Highway Administration over the proposed designated routes. As a consequence of that legal action, and of other state resistance, several states designated less than 15 percent of their system for the operation of these units in contrast to a national average of more than 50 percent of all primary highways. These states include Alabama, Georgia, South Carolina, New York, Pennsylvania and Vermont. In each of these states major sections of the state cannot be reached by a designated highway system which will allow STAA authorized combinations to be operated. A small designated primary system results in very few locations from which reasonable access is possible, whether the allowed access is 1,500 feet or several miles.

The FHWA did take limited action to require states to designate some portion of their primary systems for these vehicles. FHWA also required these states to exercise reasonable standards in limiting hours of service and restrictions on the designated routes. In recent years, however, no further efforts have been made by the FHWA to require states to expand the system of primary highways for the operation of these combination units. In turn, the states have taken no further action to improve the designated highway system, now called the "National Network."

The TTSA of 1984 changed the basis for adding designated primary roads to the National network by requiring that the Governor of each state approve any additions before FHWA may designate more miles. Further, the TTSA established standards and procedures which the states must adhere to in designating additional routes for the National Network. As a consequence recent additions to the designated highway systems in the states have simply been published by the states as "State Designated Routes." For example, Georgia has now "State Designated Routes" for STAA authorized vehicles, but has set overall vehicle length limits as well as trailer limits on these roads. Such overall length restrictions would not be possible if the highways were a part of the National Network. In other words, the National Network in Georgia meets the STAA requirements, but the "State Designated Network" does not.

In some states, it is nearly impossible to determine what are:

The designated routes; and

What are the access routes which must be strictly followed with no deviation.

In other words, no one really knows what the rules are in states such as New York, Pennsylvania, and Massachusetts where there are National Network designated highways as well as state, county, and other local designated access routes.

Several states have also limited the productivity of STAA vehicles by attempting to ban these units from certain Interstate System routes entirely or by limiting hours of service on designated National Network highways. The FHWA has been sued because FHWA told Tennessee that it could not ban STAA trucks on a new Interstate segment opened last year. FHWA has also called on Kentucky to end restrictions on an Interstate route where no clear safety reason for a ban has been provided.

The courts have generally rejected bans or hours of service restrictions on designated routes unless evidence is clear and compelling. However, the court process is lengthy and costly and deals only with a specific restriction. Courts do not establish national standards; that is the function of Congress and the Executive Branch.

It is apparent that the states are not prepared to extend the designated highway routes. Accordingly, the trucking industry is convinced that action is required by Congress to deal with this issue through the passage of S. 1391 which requires the states to provide "reasonable access" to "terminals."

Reasonable access

In its publication of the designated National Network in 1984, FWHA stated its intention to leave the definitions of "reasonable access' and "terminal" entirely to the states. FHWA pointed out that the STAA contained no definitions of either term and that the states were best suited to determine how to safely accommodate these vehicles.

As a consequence, there are almost as many definitions of "reasonable access" as there are states. In general, states have controlled access by:

Allowing STAA vehicles on all roads;

Limiting access by miles from the designated system; or

Allowing access by specific access route only.

Today, some 34 states have either unrestricted access for STAA authorized vehicles or broad enough mileage-based access provisions so that virtually all shippers and receivers can be reached by these more productive trucks, except where clear safety problems exist.

In nearly every state where access is permitted only by designated access routes, there are serious problems. In Pennsylvania, for example, access is limited to 0.2 mile from the National Network except by specific access routes. At this time, the state has published a list of access routes which is 84 pages long. No access route map has been published to date, although the state expects to publish one in the fall. No access beyond these specific roads is permitted in the state. How can an owner operator or small carrier operating in Pennsylvania possibly operate legally at all times with only an 84 page listing of every road, street, or byway in the state on which he can operate?

To understand how Pennsylvania got into such an impossible situation, one must understand that access from its limited designated system must be by preapproved specific access routes only, if more than .2 mile from the designated National Network. Essentially, every shipper dock or loading area in the state must be on a preapproved access route if it is to be served by STAA vehicles. In the past approvals have taken up to a year and routes have been disapproved without any apparent safety consideration. In a case brought in Federal District Court in Pennsylvania (*Consolidated Freightways Corp.* vs. *Larson*, 647 F. Supp 1479 [1986]), the Court ruled that prompt action and specific safety consideration must occur on access route ap-

provals or denials. This has helped speed approvals, but has not helped prevent confusion for individual carriers. The state has appealed the decision.

Furthermore, Pennsylvania's 84 page publication is not actually one list but nine different lists within the one publication. The attached matrix is printed as published by Pennsylvania to tell carriers where to look for routes available to differing STAA approved vehicles. No wonder truck drivers end up on the wrong road in Pennsylvania. Not only must a driver know that there is a designated route, but also which route is approved for the specific vehicle type he is driving.

Recently, the Pennsylvania DOT (PennDOT) set up a joint Task Force with ATA to review this access system. The first meeting of this group has identified several areas of possible future action and a second meeting is scheduled soon. Secretary Howard Yerusalim of the Pennsylvania DOT has been very supportive of this effort. However, this negotiating is being done in the absence of uniform Federal standards.

The State of New York has a publication that is just as confusing as Pennsylvania's. Again, all routes must be preapproved and specifically designated to be opened to STAA authorized vehicles. Access to or from these designated routes is limited to 1,500 feet except by preapproved access routes. The New York publication is 76 pages long, listed by counties. Where an approved access route crosses a county line, the adjoining county list must be consulted to determine how access may be continued. As in Pennsylvania, no information is posted on highways, no maps or other visual aids are available and lists go out of date as new routes are approved. As more routes are approved, the list becomes longer and more complicated.

In Massachusetts, approved access routes are also required to reach terminal locations. In this state, very few access routes have been approved and a number have been rejected—without any direct evidence of safety problems. This makes access highly restrictive. In Massachusetts, however, it has been possible to purchase a long semitrailer permit for trailers over 45 feet up to 48 feet for $50 per year. Purchase of an annual trailer permit will allow operation to substantially more locations than those reachable on access routes. Apparently, purchase of a $50 annual permit somehow makes a truck much safer. Because of its more restrictive attitude toward approving access routes and costly permit fees, Massachusetts appears to be surpassing Pennsylvania and New York as the most restrictive state for STAA vehicles.

Similar situations exist in Vermont, Virginia and other eastern states. Additionally, recent California legislation appears to have opened the door to similar designated access routes for some STAA authorized semitrailers. Cities and counties have been given the authority to designate routes for combinations under certain specific conditions.

Clearly, reasonable access for STAA approved vehicles is today in the eye of the beholder. States have interpreted these two words in many different ways with no consistency, no uniformity and frequently inadequate information for the truck operator.

Terminal

The meaning of the word "terminal" in the STAA is also undefined and FHWA has left the task of definition entirely to the states. As a consequence, several of the states have adopted terminal definitions which apply only to for-hire truck terminals with yards and extensive loading dock facilities. Private carrier facilities and shipper and receiver docks and platforms are excluded. Another common definition is to consider a terminal as any location which has a loading dock which can be reached without the vehicle extending out into the street. Other states simply leave terminals undefined and deal with each request for access on an ad-hoc basis.

Up to this time, FHWA has made no effort to provide a common definition or to require the states to change the way in which they treat terminals. So long as the states are permitted to decline to define the word "terminal" or tightly restrict a terminal definition, the ability of carriers to reach their own or their shipper's terminals becomes entirely dependent upon the states' attitude toward STAA trucks. Access to terminals becomes completely dependent upon an approved access route or on an arbitrary mileage distance. This is the kind of problem which recently caused a motor carrier to abandon his terminal in Massachusetts. He was denied an access route permit to the terminal which was safe, but allegedly too congested. There was no recognition that the carrier had been operating with 45 foot semitrailers from that terminal without any problem. One can only wonder how adding 3 more feet to a unit adds to congestion.

Trucking operations clearly involve interstate commerce and non-uniformity and arbitrary actions by the states burden interstate commerce. Congress acted in 1982

to preempt the states. It is time now for Congress to prevent states from flaunting the will of Congress. Accordingly, it is essential that some structure be devised which will limit the actions states may take in restricting the operation of the productive vehicles which are authorized by the STAA. Such a framework exists in S. 1391, which defines "terminal" as "any facility where freight is loaded and unloaded or where a commercial motor vehicle subject to this chapter is manufactured or regularly maintained or stored".

III. HOW S. 1391 WILL SOLVE THE ACCESS PROBLEMS

By providing a clear definition of the terms reasonable access and terminal, S. 1391 at long last will require the states to allow carriers to reach terminal facilities of shippers and receivers with the productive equipment which was approved by the Surface Transportation Assistance Act of 1982. Today, as we consider S. 1391, truckers who are simply attempting to operate STAA authorized equipment to shippers and receivers of freight who have ordered delivery in such equipment are being cited in some states for overlength or over-width violations.

The definition provided in S. 1391 will in no way compromise the states ability to restrict STAA vehicles or any other truck combinations for safety reasons. The STAA clearly recognizes the safety implications of STAA units and provides for state restrictions where necessary. The TTSA of 1984 further spelled out the right of the states to restrict these units where safety problems clearly existed. For example, states have used the safety authority to restrict the operation of these units during reconstruction activities where highway geometrics were affected temporarily because of construction or reconstruction. Without question, the trucking industry has accepted these temporary restrictions.

Allegations that twin trailer combinations or longer semitrailers are inherently unsafe and therefore must be restricted have never been proven. Twin trailer combinations such as those authorized by the STAA have been operating on the public highways of many states for more than forty years and have compiled an exemplary safety record. The safety record speaks for itself, as does the fact that states which have allowed the operation of twin trailer combinations have gradually increased the highway mileage available to these units over a period of time. Since all of the combination units approved by the STAA will increase the carrying capacity of one combination truck, the number of vehicles required to haul the same amount of freight is smaller. A reduction in the number of vehicles will lead to a reduction of accidents. This is borne out in the Transportation Research Board study prepared at the request of Congress and published in 1986, Twin Trailer Trucks, Special Report 211.

Passage of S. 1391 will not lead to a reduction in the role of the states in supervising the operation of STAA authorized vehicles for the following reasons:

Such vehicles can be restricted for legitimate safety reasons. There is a presumption in the bill that STAA trucks cannot use roads designed with a lane width of less than 10 feet. We support these provisions.

States must continue to inspect vehicles for equipment violations as they are now doing under the Motor Carriers Safety Assistance Program created by the Congress.

Expanded weighing programs now underway in many states are additional actions which the states will continue and expand in order to protect their highway systems.

The trucking industry strongly supports all of these programs to keep unsafe trucks off the highways.

The only impact which S. 1391 will have on these programs is to enable states to concentrate their safety efforts on those activities which will have a real impact on overall highway safety.

IV. WHY IS S. 1391 NEEDED NOW

More than eighteen months ago the National Industrial Transportation League, representing the manufacturers and shippers of the United States, petitioned the DOT to issue a Rulemaking which would define "reasonable access" and "terminal" in approximately the same manner as S. 1391. They see the more productive vehicles as an essential tool in allowing them to compete in a worldwide economy. ATA promptly supported that petition as did many motor carriers and other organizations.

Since 1984 more than 50% of all semitrailers manufactured in the United States have been 48′ × 102″ wide or longer. The annual percentage is higher each year. As a consequence, STAA approved semitrailers are already becoming the national standard for truckload tractor semitrailer operators.

After several months deliberation, FHWA issud an Advanced Notice of Proposed Rulemaking asking for advice on this petition. A flood of replies were received urging action on the docket which closed a year ago. Last fall, DOT indicated informally that a Notice of Proposed Rulemaking would be issued soon. The trucking industry is still waiting for that Notice of Proposed Rulemaking. Moreover, last year's Appropriations Conference Report instructed DOT that the Final Rule cannot be issued until the findings of a Transportation Research Board Committee study are available, sometime in the summer of 1989. Accordingly, unless your Committee reasserts control over this issue and acts on S. 1391, it is almost certain that no action will occur to solve this festering problem until 1990, almost eight years after the STAA was passed.

V. CONCLUSION

In 1982, trucking industry federal taxes were more than doubled in exchange for the right to operate 48′ × 102″ tractor semitrailers and twin trailer combinations with 28′ trailers in all states. Subsequently, the states also raised special truck taxes. These greatly increased state and federal use taxes are being paid without, in many states, the promised increased productivity. The trucking industry, as well as shippers and receivers of freight, have diligently sought legislation, regulatory, and judicial action in many states to remove the many artificial and unproductive access barriers which states have enacted. Some progress has been made but the basic burdens on interstate commerce remain. Unfortunately, sometimes what appears to be the lifting of restrictions has only meant a different kind of restriction, e.g., Georgia's state designated highway system with an overall length restriction. Thus progress remains exceedingly slow and difficult in the states while both state and federal governments continue to collect huge tax increases levied on the trucking industry in exchange for the productivity increases.

Administrative relief is tangled in rulemakings and studies which cannot be completed until 1990.

The trucking industry has struggled in the states and at the Department of Transportation for more than 5 years to secure reasonable access to the terminals as required by the Surface Transportation Assistance Act of 1982. The attached list of state access restrictions shows that the problems described herein are not limited to only a few states. More than half of these 17 states require specific route permits beyond very limited open access. All of these states have, or will have, huge lists of permitted routes such as Pennsylvania and New York. No signs will be erected and no highway information will tell truck operators or shippers which roads are approved.

ATA believes that S. 1391 and the proposals presented here are reasonable. Their implementation presents no undue infringement on safety to the highway community and leaves a great deal of discretion to the states. In cases where states and communities have legitimate safety concerns, those concerns should be considered. Enactment of S. 1391 will result in a more uniform, more productive, and more efficient transportation system, and does not preempt legitimate state safety concerns. Improved highway safety is ATA's top priority. That objective transcends all other issues. We are convinced that S. 1391 will improve safety by reducing the number of trucks required to move the nation's freight.

Pennsylvania STAA Truck Routes

The following information contains all the approved Truck Acces Routes in the State of Pennsylvania as of the date listed above. Approvals are in compliance with Legislative Act 19, of 1983; Sections 4904, 4908, 4921, and 4923.

Lists I and II contain the Pennsylvania National Truck Network: See Map.

Approved Truck Access Routes are contained in the attached lists. Truck combinations identified with an "X" may use the roads listed in the following chart. Truck combinations not identified with an "X" are not approved for roads on that list.

List	Width		Truck combinations	
	96 in.	102 in.	Twins	Semitrailers
III	X	X	X	X
IV	X		X	

List	Width		Truck combinations	
	96 in.	102 in.	Twins	Semitrailers
V	X	X		X
VI	X	X	X	
VII	X		X	X
VIII		X		60-ft maximum overall length.
IX	X			X
X	X			53-ft trailers.

Note.—Twin trailers—maximum length each trailer, 28½ ft. STAA semitrailers—maximum trailer length, 48 ft. STAA truck combination—maximum widths, 102 in. STAA truck combinations—no maximum overall length. 96-in-wide truck combinations of the same type may use roads approved for 102-in-wide combinations; i.e., truck combinations approved for list IV may also use roads on lists 3, 6, and 7. Shorter length trailers having the same width may use roads approved for longer trailers; i.e., truck combinations approved for list VIII may use roads on lists 3 and 5.

Selected State Access Restrictions

Alabama

Twin Combinations: One mile access from National Network.

California

Tractor-semitrailer, twin combinations: Access restricted to ½ mile, and specified routes to terminals as authorized by state DOT and local authorities.

Connecticut

Twin Combinations: One mile access from National Network.

District of Columbia

Access by permit only.

Florida

Twin Combinations: Access in rural areas, one mile on two-lane roads, three miles on four lane highways; in urban areas one mile on highways with lane widths at least 12′.

Georgia

Twin Combinations: One mile from designated highways at specified interchanges.
Tractor-semitrailer: All roads with 12′ lane widths (subject to 60′ overall).

Maine

Access restricted to two miles in rural areas and ½ mile in urban areas; permit required for operations beyond.

Massachusetts

Access by specific route permit to terminate upon carrier petitions; access to specific business locations (warehouse) up to 1.5 miles.

New Hampshire

Twin Combinations: Access by permit only.

New Jersey

Twin Combinations: Access by permit only.

New York

Access restricted to 1,500′ on state roads; other specified routes to be authorized by state DOT and local authorities upon carrier petition.

NORTH CAROLINA

Access to terminals subject to determination by the North Carolina Department of Transportation.

PENNSYLVANIA

Access restricted to 7/10 mile; access beyond allowed by special permit.

SOUTH CAROLINA

Twin Combinations: Access allowed to terminals, shipper points, distribution warehouses.

VERMONT

Access without permit limited to ½ mile for fuel, food, lodging, repairs and access to terminals.

VIRGINIA

Access restricted to shortest possible route not to exceed ½ mile.

WEST VIRGINIA

Access restricted to two miles including points of loading and unloading.

[From Travel Weekly/Mar. 14, 1988]

DEPARTMENT THREATENS LAWSUIT—DOT, STATES CLASH OVER AD GUIDELNES

(By Bill Poling)

WASHINGTON.—The Transportation Department has threatened to go to court if necessary to stop state governments from regulating airline advertising with rules that conflict with the DOT's standards.

In letters to the attorneys general of eight states, the DOT's general counsel, Wayne Vance, said guidelines adopted last year by the National Association of Attorneys General contain provisions that are "clearly preempted by federal law."

The letter singled out two types of price advertising that the states want to ban but that are allowed by federal rules: the exclusion of taxes and surcharges from the advertised fare and the promotion of one-way levels for fares that require a roundtrip purchase.

Vance asked that the states take no further action on the two provisions and offered to confer with state officials here later this month when the association meets to review implementation of the guidelines.

But he also warned that "if threats to enforce the particular sections of the guidelines continue, we will be forced to consider taking formal legal action to prevent their enforcement."

He also expressed the hope that "this result can be avoided through constructive and cooperative discussion."

The letter was addressed to officials in California, Colorado, Kansas, Massachusetts, Missouri, New York, Texas and Wisconsin.

With the exception of California, the attorneys general of those states had signed a joint memo to the airlines in February objecting to the two advertising practices.

The memo noted that the guidelines require the inclusion of all surcharges, and objected to the airline practice of excluding the $3 international departure tax and the new Customs and Immigration fees from advertised fares.

The memo also reminded airlines that the guidelines prohibit ads from showing a one-way rate for a fare that is available only on a roundtrip basis.

The DOT's rules, by contrast, allow surcharges to be stated separately as long as all charges are disclosed, and permit airlines to advertise a one-way rate as long as the roundtrip requirement is clearly stated.

In his letter, Vance said the DOT has long "permitted the type of advertising to which the attorney's general object."

Under the Federal Aviation Act, the federal government "has pre-empted this aspect of state . . . regulation," Vance said.

Vance had cited these two provisions in a letter to the association last October when the guidelines were being drafted, but state officials at the time rejected his recommendation that they be dropped or changed to conform to the federal regime.

The guidelines also contain disclosure rules on discount fare restrictions and the conditions on frequent flyer programs, but the DOT has not objected to these.

State officials were reviewing the letter and attempting to formulate a joint response.

Most officials declined to comment, but the head of the consumer protection division in Texas, assistant attorney general Stephen Gardner, told Travel Weekly "we are not going to back down."

Gardner said "the DOT has been lax in protecting consumers. If it was doing its job, we wouldn't have the guidelines."

"DON'T LIE"

He said the threat of a lawsuit by the DOT is "illfounded," adding "we are not pre-empted. We are just telling the airlines, 'don't lie to our citizens if you want to do business in Texas.' "

Airlines generally side with the DOT in the dispute, in the hope of maintaining a uniform set of national standards.

A spokesman for the Air Transport Association said the airlines want to avoid the creation of a "patchwork" of rules that might differ from state to state.

Senator KASTEN. I also note that our friend and colleague, Senator Karnes, is in the room. I know that he is going to testify as well. So let me just ask Tom one question.

If the restrictions on access which you have described in your testimony were removed and, in effect, the 17 states, and I know there are varying degrees of restrictions in each of them, if we essentially removed all of the restrictions, do you have an estimate in dollar terms about what kind of savings in productivity could be brought, what kind of savings in fuel costs could be achieved?

Is there any way that we can express from the committee point of view how much less expensive goods would be, on an overall national basis? In other words, what kind of an impediment, what kind of a dislocation have we put into our system here, and how costly is it to people all across America?

Mr. DONOHUE. Senator, that is an excellent question and, of course, one that takes a great deal of calculation. Maybe you will allow me to walk you through the process for a minute or two, and perhaps we can come to a conclusion on that.

First of all, there are three groups of truckers that are affected by this in different ways. There are those that know that they are prohibited from going to points of loading and unloading and to terminals and various different factories, and they just do not go. That has a very significant effect on the economic health and vitality of a state and of individual companies and of trucking companies. That costs us a lot of productivity and a lot of money.

Then there is the second group who go along and get away with it. I want to say this. There are many, many 48/102s and doubles that are going to places that these states find illegal. They do it either out of ignorance or they do it intentionally.

If we all went outside, Senator, right now and I lined up a whole lot of 48/102s and the smaller versions, 45/96s and others, you could not tell the difference unless you got out a tape measure. But you can sure tell the difference in terms of productivity over time. It makes a big difference.

So we have that second group that goes there and gets away with it.

Then we have a third group who are maybe not as shrewd, and they go there and get caught. It seems, by the way, that you would

be interested in the getting caught thing. In different states it runs in cyclical periods of time. Mr. Schneider is here, and he will tell you that all of a sudden a state decides they are going to keep an eye on him, so he may get a lot of checking out. The application of the law is very unequal sometimes.

Anyway, you have these three groups of people. Now, if we could be assured that all of them could go there on a regular basis, number one, you would get increased productivity because you could use the larger trucks.

Number two, you would not have to travel all the circuitous miles so that you would be able to save fuel.

Number three, you could avoid all this paperwork and all these forms and all of these books and marked lanes and so on, and you could reduce the cost to the state and the community as well.

I would say that if these 17 states abided by the spirit of the law, in the out years you would see a significant effect on the increased cost to the trucker, to the shipper, and to the consumer.

If you want me to say would we go back and reduce costs if we could get these 17 states, I do not think so, sir. We have been paying those taxes. We have laid out $12 billion. We had 1,500 bankruptcies in our business last year. We have had 48 major companies go out of business in the last eight months, and this productivity problem is a contributing factor, particularly in the truckload business.

In the out years, there is tremendous savings in fuel economy and benefits to the states, the shippers and to the consumer, but right now we are paying for what we are not getting. We made an arrangement, and every day we pay $11 million, as you know, into the Highway Trust Fund, and every day we pay our equivalent of what has been $12 billion over five years for the STAA vehicles.

The question really ought to be turned around. When are we going to get what we are paying for?

Senator KASTEN. I do not disagree with you. At the same time, it would help those of us who are proponents of the access legislation if we could open up these 17 states and say here is how much money America would save; $11 million per day and $12 billion over a period of time, I am with you, and I have been making those speeches, too.

Mr. DONOHUE. Good. I will try to get you some material. We will put a little material together.

One of the things I have tried to do while we have been at ATA for the last four years is not to get into this game of making these huge charts of all the money we are going to save and all the benefits that are going to accrue, because you know in this town if you ever added all that up in a single year we would get rid of the national deficit 50 times over.

We tried to deal with on-the-table reality instead of blue sky, but I will get you the best number we can, and I will get it to you in a week.

[The following information was subsequently received for the record:]

The Cost of Access Restrictions

Restrictions on access of larger trailer units cost trucking companies in terms of lost revenue from freight that could be carried on 48 foot 102 inch wide trailers, but isn't. We estimate *conservatively* that these restrictions "cost" the trucking industry between $240 million to $480 million annually.

In essence, a 48′ 102″ van has about 370 more cubic feet of trailer capacity than a 45′ 96″ trailer.[1] At 15 pounds per cubic foot for average truck freight, the 48′ 102″ van can carry over 5,500 more pounds, or close to three more tons of freight (not to mention improved ability to handle loads on 4′ pallets side by side). With average revenue per (truckload) ton of $25, the 48′ 102″ van can generate $75 more for each truck movement, if the weight of the tractor-trailer plus freight was less than the 80,000 pound maximum.

Access restrictions are currently in place in 17 states.[2] The number of tractor-trailers registered in these states totaled 433,000 in 1986,[3] representing over one-third (36.5%) of all tractor trailers registered nationwide. Factoring out multi-trailer combinations (doubles, triples), lighter weight tractor-trailers and three axle combinations [4] leaves *325,000 to 350,000* single unit tractor trailers in the 17 states able to pull the more productive 48′ 102″ trailers.

(We are using these figures as rough estimates of levels of truck activity in these states. Of course, some trucks registered elsewhere will operate in the weight restricted states; similarly, many trucks registered in the restricted states will operate in states where limitations do not apply.)

Access restrictions apply to truck usage off the designated highway system, in essence non-Interstate highways, in the 17 states now limiting truck usage. According to the U.S. DOT, over half the total vehicle mileage of combinations is off the Interstate system. Based on average miles per unit of just over 59,000, an average tractor trailer will log more than 30,000 miles per year on non-Interstates.[5]

The number of trips per year for a tractor trailer on non-Interstates can be roughly determined by dividing average annual mileage by average length of haul. For intercity for-hire carriers, their average length of haul was 325 miles in 1986.[6] For all trucking operations, the length of haul would tend to be less, especially off the Interstate system. Applying a rough estimate of 300 miles per truck movement, a combination would make 100 trips per year (30,000 miles/300 miles per trip) on non-Interstate highways, those on which restrictions would apply.

Were there no gross vehicle weight limitations (which, of course, there are—see below), restrictions on access would cost the trucking industry approximately $2.4 billion annually. That is, the 48′ 102″ trailer can handle 3 additional tons per truck movement, with each ton generating about $25 in revenue.[7] For 100 truck trips on non-Interstates annually, each affected truck "loses" $7,500 in potential revenue. For the population of affected vehicles, 325,000 at minimum, the revenue loss totals over $2.4 billion.

For many truck movements, weight, rather than cube, is the controlling factor. That is, the truck plus the weight of the freight will reach 80,000 pounds gross vehicle weight before all the trailer space is full. The 48′ 102″ trailers are most valuable handling commodities which fill the trailer space before the combination vehicle weight reaches the 80,000 pound limit. While a sizable proportion of truckload freight is very dense, and will "weigh out" virtually regardless of trailer size, we can conservatively estimate that 10% to 20% of the truckload movements "cube out" before they "weigh out". Thus, of the $2.4 billion in potential revenues from 48′ 102″ trailers, more practical savings may be in the $240 million to $480 million range.

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[1] A 48′ 102″ trailer has roughly 3,072 cubic feet of usable capacity—48′x8′x8′ (length times height times width)—compared to 2,700 cubic feet for a 45′ 96″ van—45′x8′x7.5′. The difference is 372 cubic feet.

[2] The 17 states with access restrictions are Alabama, California, Connecticut, District of Columbia, Florida, Georgia, Maine, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Vermont, Virginia, and West Virginia.

[3] U.S. DOT, Highway Statistics, 1986, Table MV-9.

[4] Estimated to represent 75% to 80% of the tractor trailer total according to the 1982 Census of Transportation's Truck Inventory and Use Survey, Table 7.

[5] U.S. DOT, Highway Statistics, 1986, Table VM-1.

[6] ATA, Financial & Operating Statistics, 1986 Motor Carrier Annual Report, Summary Table 1.

[7] ATA, Financial & Operating Statistics, 1986 Motor Carrier Annual Report, Summary Table 1.

Senator KASTEN. Good. I thank you, and you are right. The basic issue here is the agreement that was reached in 1982 which has been violated, frankly. That is the real issue. You are paying in, and you are not getting the access that we want you to have.

I think that with the help of the Chairman and now the ranking Republican member, Jack Danforth, who is here also, we are all going to work together to see if we cannot get this problem solved.

Mr. DONOHUE. Thank you very much, Senator, and I will get you some numbers right away.

Senator KASTEN. Thank you, Mr. Chairman.

Senator EXON. Thank you very much.

Senator Danforth, do you have questions?

Senator DANFORTH. I do not at this time.

Senator EXON. Thank you, Senator. I will take my time in questions now.

First, you have been listening to the previous witness today, Mr Donohue, and I know you are thoroughly familiar with the Surface Transportation Act, STAA, and how the majority of the states are handling this.

First, how would you respond to the DOT's assessment that we heard this morning that there are only six or eight states who are overly restrictive with regard to reasonable access provisions as the industry is being affected today?

Mr. DONOHUE. I think the DOT is probably correct that there are serious problems in eight states; but as you will see in the back of my testimony there are a number of other states that have created a marginal problem for us or a technical problem or perhaps a very, very expensive administrative problem.

We say there are 17 states that are not in full compliance. If you are asking me to put them in priority order, I would agree with the DOT. If I could fix things in Pennsylvania, New York, Georgia, South Carolina and Vermont and so on, I would begin to feel better in a big hurry.

One of the reasons that we are so pleased about the negotiations that are now going on in Pennsylvania is that we believe that with that type of spirit of cooperation, if we can get that moving and other states can see that happen without serious effects on their highways, it might help us.

I think one of the reasons Pennsylvania is moving forward, Mr. Chairman, is they are beginning to see the economic impact of restricting trucks.

Senator EXON. Adverse economics.

Mr. DONOHUE. Yes. People are saying I think I will put my plant someplace else. I think I will put my terminal someplace else. I think I will put my job somewhere else.

See, we lose sight of the fact that people do not put plants, terminals and distribution centers on little rinky-dink roads out in the middle of the country. They put them on roads that can easily handle these vehicles.

Senator EXON. Expand a little bit further, if you will. You have indicated that you have seen some movement in Pennsylvania in the correct direction.

Is that a fair interpretation of your statement?

Mr. DONOHUE. Yes, sir.

Senator EXON. Lots of problems yet, but some movement?

Mr. DONOHUE. Yes. I think that there has been about a 30-percent improvement in terms of the restricted routes over a period of time.

Now, why do you think that happened? Other than the economic issue, the other reason is, you know, we now have a time certain where this matter is supposed to be resolved as a result of what was in the appropriations bill and so on, which I certainly would rather have had handled in this committee because then it would be legislation as opposed to an appropriation issue.

Senator EXON. What percentage of improvement have you seen in Georgia?

Mr. DONOHUE. Next question, Mr. Chairman. We are not doing very well there.

Georgia has a very simple approach. They say, well, only 15 percent of the roads are designated, and if you want to get anyplace else it is very, very difficult. They tell you things are going to get better when they build new roads.

We are paying those taxes now, and there are plenty of roads in Georgia that we ought to be able to drive on.

Senator EXON. I take it, Mr. Donohue, you heard my series of questions and discussion with the administrator who preceded you at the witness table today. I was making inquiry of him as to what conditions would exist in certain states, Pennsylvania, Georgia and some of the rest, that would be significantly different from the states with whom we have had absolutely no problems with interpretation of the Federal statute in this area.

If we did not have these problems, there would be no need for S. 1391.

From your perspective and being totally objective, which I think you wanted to be, are there some problems in Georgia, for example, that are significantly different on the access issue than from other states?

Mr. DONOHUE. First of all, Mr. Chairman, I do not want to fool anyone. I am not very objective about this. I am very representative of an industry here——

Senator EXON. I am asking you to try to be.

Mr. DONOHUE. I will try.

I think it would be fair to say, Mr. Chairman, there is not a lot of difference between Georgia and Florida. There is not a lot of difference between Georgia and North Carolina. There is not a lot of difference between Georgia and Tennessee. They have the same climate, relatively same types of roads, many of the same types of industries. There is no question that in any state there are individual roads, individual interchanges, individual communities where there may well be a design problem, a safety problem or a reasonable situation where the state might want to say in this instance we have to have a special arrangement.

In terms of the total state of Georgia, in relation to economy, climate, roads, and the administration of the highway program, there is no difference than in the surrounding states other than that Georgia has decided not to meet its part of the agreement.

Senator EXON. Mr. Donohue, in those states that have designated less than 15 percent of their highway systems for use under STAA-

approved vehicles, how does one determine what the designated routes are?

What is the rationale? Is it through maps or guidebooks or the whim of State and local authorities?

Mr. DONOHUE. Well, if you go to Pennsylvania, for example, sir, the way you do it is you get this 84-page booklet and you try to figure out which routes are allowed and which are not. They are not marked.

Then if you have come from Nebraska and you get there—Duane Acklie brings some of his trucks there—you try and do the best you can to find the most accessible and accepted route to get where you have to take your product.

But then you sort of realize it is a long way back to Nebraska, and you read the book and you do the best you can, and then you go where you have to go, and you get in trouble for it a lot of times.

Senator EXON. To the extent that the problem exists in this area, what constructive suggestions do you have or do you think are necessary for us in the Congress to better define what it is that we had as our intentions when we passed the act in question?

Mr. DONOHUE. One would hope, Mr. Chairman, that what is going on in the rulemaking, what is going on in Pennsylvania and other places where there are negotiations between the industry and the states, one would hope that that would resolve the problem.

Unfortunately, there are two extenuating circumstances. First, it is not going to resolve the problem in a number of states that have taken a very hard line; and, second, that resolution, if it comes, may only last as long as that particular administrator or that particular combination of circumstances.

So I really think, considering the massive amount of money at stake, and considering the arrangement that has been made, and considering the effect on economic progress in interstate commerce—you see, it is not a matter of what happens in Pennsylvania. If you could just think about it in terms of Pennsylvania, that would be one thing. But it affects the economy of every state represented here today because people exchange trade goods from place to place. They move interstate commerce through Pennsylvania to other states.

I think, considering all of those factors, it is time for the Congress and this committee to recapture control of this issue and to speak on the matter and let the states know that if they are going to collect Federal highway funds, if they are going to participate in the interstate commerce system, they are going to have to play by the rules.

Senator EXON. All right. One last question with regard to fees, because it plays a key role in this, either the fair interpretation of them or not.

In your testimony you mention a $50 annual trailer permit which will allow carriers to travel to substantially more locations than those that they can presently travel on the access routes.

Can you discuss this further and indicate how widespread the application of this fee-based system is or how widespread should it be?

Mr. DONOHUE. First of all, let me say that it just amazes me how, without the fee, the road is unsafe, not usable and should not be allowed for those vehicles.

Senator EXON. But it is if you pay the fee?

Mr. DONOHUE. If you pay the fee, everything gets better.

Now, fortunately that is not widespread.

We believe that because of our significant success in the tax courts and in the United States Supreme Court on discriminatory taxing, other states have stayed away from fees of this kind.

I made the point only to show that the state in one mind can talk about safety and the protection of its citizens and in the other mind abandon that the minute we pay a $50 fee, which sounds to me a little convenient.

Senator EXON. Thank you. I have no further questions.

Senator Pressler.

Senator PRESSLER. Good morning.

Mr. DONOHUE. Good morning, Senator. Nice to see you.

Senator PRESSLER. Nice to see you again.

Are there any additional preventative safety measures that could be implemented by the trucking industry should access be allowed nationwide?

I guess the big issue is the safety changes here. Let me say I am a supporter of this bill, but that has been the main objection.

Are there some things that can be done that could be implemented by the trucking industry should access be allowed nationwide?

Mr. DONOHUE. Senator, I think yes, and if you just give me a moment I will give you a quick list.

First of all, I think when we have passed under the leadership of this committee last year the single national commercial driver's license issued by the states, we took the most significant step to protect ourselves in interstate commerce.

One of the major problems a trucker has when the fellow leaves the yard with the truck, he sometimes does not see him for a week or three weeks, and he is not really sure what he is doing. With this driver's license, we are going to assure ourselves that the people that are driving through these states and on these roads are trained, tested and kept track of. If they go from your state to the Senator's state and drive 80 miles an hour and get ticketed for reckless driving, that is going to come back to your state so that you can right away take away their license. That is number one.

Number two, this committee has led the way and the Senate has passed and the House will soon pass the bill that will eliminate that protection within the commercial zones, which are getting bigger and bigger and bigger because of population that allow trucks and drivers to operate without any of the scrutiny that you Senators have put on interstate commerce.

The third thing is you provided in that driver's license legislation $50 million a year for more roadside inspections, and we have quadrupled in one year the number of roadside inspections of trucks and drivers. Couple that with the driver's license, we are going to assure ourselves of better and better quality of driving and the condition of the trucks.

Finally, we are in discussion with all here about a reasonable and a workable system for drug testing and alcohol testing to

assure ourselves that those that drive our trucks are in complete control of their faculties.

You put the driver's license, the commercial zone, the roadside inspection and the drug testing together, and you have the most vigorous effort by any industry in this country in modern time to do something about safety where it has some control.

We took the lead on that. We were not pushed into that legislation. We pushed to have it passed. We appreciate your support on it. Senator, I think our safety record speaks for itself.

OPENING STATEMENT BY SENATOR PRESSLER

Senator PRESSLER. No further questions. Thank you very much, Mr. Chairman.

I have a statement for the record.

Thank you, Mr. Chairman, for recognizing the importance of the truck access issue by scheduling this hearing today. I recognize the confusion that is the result of different interpretations of the Surface Transportation Assistance Act by individual states. I believe today's hearing is a step toward resolving any confusion that may exist.

Amending the Surface Transportation Assistance Act would have virtually no effect on my state of South Dakota for our state currently allows trailer widths of 102 inches, lengths of 53 feet, and twin combination trailers without a permit.

I am, however, concerned about the potential economic hardships on the trucking industry that may be caused by other individual legislatures and state regulating agencies that restrict access to federally funded highways.

By glancing through the Summary of Size and Weight Limits published by the American Trucking Association, I have noticed that permitted semi-trailer length on interstate highways varies from 48 feet in some states to 60 feet in Wyoming. Once a trucker leaves a national network, his options are limited. Twenty-one states do not permit twin combination trailers. On the other hand, nine states provide for no restrictions on the use of twin combination trailers.

I sincerely hope that today's hearing and the upcoming study from the National Academy of the Sciences will provide us with additional direction.

Again, Mr. Chariman, I thank you for holding this hearing and I look forward to hearing the testimony of this morning's witnesses.

Incidentally, Mr. Chairman, I would like to submit for the record a letter I have received from Mr. Robert Appelwick, President of Apple Lines, Inc. of Madison, South Dakota, that provides some excellent insight into this issue.

Senator EXON. Thank you.

Senator Danforth.

Senator DANFORTH. Mr. Chairman, I see our colleague, Senator Karnes, is in the audience. I just want to make——

Senator EXON. I am trying to move to him. He is my colleague also, and you all have been mentioning his name. If we could end the questions, I would be glad to move to him.

Senator DANFORTH. I am always pleased to mention Senator Karnes' name and hope to have the opportunity to do so for years to come.

Mr. Donohue, this is really not a question. It is just a request.

I understand that the ATA came out against random drug testing a short time ago.

Mr. DONOHUE. No, sir.

Senator DANFORTH. That is not right?

Mr. DONOHUE. No. What ATA has said is that we support the provision that you put in the bill that would establish four states where we would go and do a system to figure out how, when and where. We support that whenever you are ready to go forward.

Senator DANFORTH. I am ready. We have done it in the Senate. The bill has passed.

Mr. DONOHUE. We will support that, sir.

The one thing which we would oppose, when you look at the railroads and the airlines they will test less than 100,00. In our circumstance, if you tested all the truck drivers, depending on how small a truck you went to, you would go between 2.5 and 5.5 million people.

Senator DANFORTH. Yes, I know the practical problems, and that is why the original form of the bill left out trucks because we could not figure out how to do it. But now we have it in the four pilot——

Mr. DONOHUE. We will support the four pilot things vigorously, and we have said so on dozens of occasions around the country. You can expect our support.

Senator DANFORTH. Thank you.

Mr. DONOHUE. Thank you.

Senator EXON. Thank you, Mr. Donohue.

Mr. DONOHUE. Thank you very much, Mr. Chairman.

Senator EXON. We appreciate your being here, and you are excused.

We will call the next panel now, and we will include on that panel my friend and colleague from Nebraska, Senator Karnes, who is here. We are pleased to have you come and testify this morning, Senator. I will recognize you first when the panel is seated.

Along with Senator Karnes, we are pleased to have Mr. Duane Acklie, President and CEO of Crete Carriers of Lincoln, Nebraska; Mr. Donald Schneider, President of Schneider National of Green Bay, Wisconsin; and Mr. Thomas Stedman, Director, Corporate Transportation, Walgreen Company of Deerfield, Illinois.

Gentlemen, will you please take your seats.

Senator Karnes, we welcome you this morning to testify. May we start the panel by allowing me to recognize you.

STATEMENT OF HON. DAVID K. KARNES, U.S. SENATOR FROM NEBRASKA

Senator KARNES. Thank you, Mr. Chairman. It is a pleasure to be here this morning. It is particularly a pleasure to have the opportunity to hear some of the very interesting testimony that has been presented today in an issue that I know is very important for our

particular State of Nebraska and that you and I share a concern for.

I am pleased to have the opportunity as well to express my views to the committee on the bill that you are considering this morning, S. 1391.

I am also glad to be here to introduce a very distinguished constituent from our home State of Nebraska, Mr. Duane Acklie. Mr. Acklie will be presenting his views on the issue of reasonable truck access during these hearings, and I wanted to personally introduce him to the committee and thank him for sharing his time and his important concerns and those of the trucking community in Nebraska and nationwide to everyone present at these hearings.

Mr. Acklie is a particularly prominent member of the trucking industry, as evidenced by his senior positions in four large trucking concerns. These concerns are located in Lincoln and York, Nebraska, New Kingston, Pennsylvania and Council Bluffs, Iowa. So it is clear that Mr. Acklie represents the views of the members of the trucking community in many areas of our country.

He also represents the views of the Interstate Carriers Conference affiliated with the ATA, the national trade association for common carriers.

Mr. Acklie has played a vital role in promoting the safe use and development of our transportation resources in Nebraska and across the country. His commitment to the growth and efficiency of the trucking industry is evidenced by his appearance here today before this committee to comment on the proposed legislation.

Mr. Chairman, I have had a chance to review Mr. Acklie's testimony, and I support it wholeheartedly. I will not take a great deal of time discussing this bill before the committee because I believe Mr. Acklie is much better capable of doing that than I. I will defer, then, to his expert testimony.

Briefly, I believe that S. 1391 addresses a very important aspect of the Surface Transportation Assistance Act of 1982. It is important that Congress clarify what was intended in the 1982 law and resolve any remaining questions as to the purpose of that act on our nation's surface transportation system, particularly where we have disagreements with states.

I understand that through this bill Congress intends to create clear standards regarding reasonable access for carriers which operate in interstate commerce without compromising legitimate concerns regarding safety within each and every state.

I commend the Chairman of this committee for his leadership in this regard in introducing this measure, and I look forward to voting for what appears to be a very workable solution to the terminal access problems for common carriers traveling on the interstate system.

I once again welcome my cornhusker colleague, Duane Acklie, to this committee, which is in the very good hands of my colleague from Nebraska, Senator Exon.

Thank you very much, Mr. Chairman.

Senator EXON. Thank you very much, Senator Karnes.

Can you stay for a few minutes to answer a question or two?

Why not proceed now, if I might, with the man that you have just introduced so eloquently, and I appreciate your being here to

introduce him. I agree with the comments you have made about Mr. Acklie.

Duane, I am pleased to recognize you at this time.

I would ask this panel if we could follow the same procedure as I have outlined previously. We will be glad to accept without objections your full statements for the record and would ask you in the interest of conserving time to summarize, if you will.

STATEMENT OF DUANE ACKLIE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, CRETE CARRIER CORP., ON BEHALF OF INTERSTATE CARRIERS CONFERENCE

Mr. ACKLIE. Thank you, Mr. Chairman. Thank you, Senator Karnes and honorable members of the committee. I am pleased to be here.

If we look at a little bit of history, Chairman Exon will remember that the Nebraska motor carrier interests came to him in late 1982. My memory is that when the provision on access was adopted, there were no formal hearings. It was a matter that came along with raising taxes on the motor carrier industry.

It was the Nebraska position at the time that certainly there should be increases, and it was necessary to take care of our highway system, but could we phase it in. Our heavy vehicle use tax at that time was increased over fourfold, our fuel tax was almost doubled, and our total Federal taxes were doubled overnight.

One of the things that Senator Exon asked us at that time was, but you are going to get more productivity, at least that is what is alleged. He stayed late that December rather than going home to try to help our industry. We said to him at that time we do not know particularly where the 102 inch width is coming from or the 48 foot. We are satisfied with what we have in the 45′ x 96″ trailer.

Let me also say to you that it was not a drastic departure. Many of the states already allowed vehicles or trailers that were longer than 48. Our buses are all 102 width and have been for many years.

Now, many of these states where they say we cannot operate these 48/102s, they are today operating buses over them at 102 in width, and they have been for many years.

So Congress saw fit to enact the STAA in 1982. I think Senator Exon had some questions on it. He helped us a great deal, but it was enacted. We read the legislation and it said we would have reasonable access.

The next thing that we knew is that many of our customers said when are you going to get the bigger trailers. There are only 5 or 10 percent of our customers that need it, and it was a tremendous cost to do that, to change. But we thought if that was the industry standard that had been mandated by Congress, let us change because that standard will last for a long time.

As Senator Exon knows, $51 million to our reasonably small companies is an awful lot of money. That is what it cost us to change from the 45′/96″s to the 48′/102″s. We changed before we even knew we had a problem. We cannot go back. It would be bankruptcy for the carriers to go back.

It was passed in 1982. Early in 1983 we were told of the great productivity gains we would make by being able to use different size trailers. It was not until 1984 when we read in trade journals that there was a problem in access. Our very first ticket came in March of 1985 in Pennsylvania. We operated throughout all 48 continental United States from 1982 to 1985. In March of 1985 we got our first ticket in Pennsylvania.

Pennsylvania was the only place that ticketed us in 1985. In 1986 we started picking up tickets in Georgia, North Carolina and Kentucky. It was December 1987 when we got our first ticket in Massachusetts.

Now, let us look at the increase in fines. Maybe a Philadelphia lawyer can interpret the regulations in these states, but I can tell you that a Nebraska lawyer cannot.

Fines were first $50 in these various states. Then it seemed that it went to $100. Now in New York, our latest ticket is $250.

The regulations issued in these states like Pennsylvania and New York are 80 and 90 pages in length and are complex. There is no way that we can issue them to our drivers. So what do we try to do? We try to go and say get to the point where you are leaving the interstate. Then call in, and the operations department will attempt to tell you which road to get to the plant.

I can also tell you I think it is hurting the small manufacturers. We serve a small manufacturer in Pennsylvania near Danville, Pennsylvania, which is only about 15 miles off of Interstate 80. They make the cabinets for the only remaining manufacturer of television sets in the United States. We have a terrible time getting in there, and most of our tickets are issued then. Once we get there, we have to take routes—Your Honor, may I have just a few more minutes here——

Senator EXON. You go right ahead, Mr. Acklie.

Mr. ACKLIE. You have to take a route that does cost us a substantial amount of fuel. It is complex. It is almost impossible to advise drivers.

In December 1987 when we received our first ticket in Massachusetts, we then started researching the laws of Massachusetts. They said to us, gee, that is no problem, you just take out a $50 permit on each of these trailers, and then you can operate all 3,000 trailers.

Well, a lot of those trailers never leave small midwestern points, moving into Massachusetts. But we do not know where that Nebraska manufacturer or that South Dakota manufacturer or any of the other manufacturers are going to send one of those trailers. So it would cost us $150,000 alone. We do not make $150,000 a year operating into Massachusetts. It is impossible for us to do.

Congress saw certain problems, and on October 30, 1984, Congress, in 49 U.S. Code Annotated 2312, adopted legislation that says that you can have access if you are a household goods carrier. Now, household goods carriers before deregulation were the North Americans and the Mayflowers and so forth. They basically hauled household goods. Today a lot of those people haul more general freight such as we haul than they do household goods.

It does not say that there is an exemption for access on household goods. The legislation says there is access granted for household goods carriers.

So if we go out and on all the sides of the Crete trucks we paint "household goods," we can probably operate just like that, but we are at such a competitive disadvantage with those carriers who before regulation were household goods carriers, and recognized as such. You granted them that authority on October 30, 1984, and we in turn have to try to compete on that basis. We cannot do it. It is discriminatory, and I can also say to you that it is selective enforcement in the states.

I probably will regret saying this, but we have a Pennsylvania domiciled carrier, one of our three carriers. We do not have that many problems with 48'/102" in Pennsylvania on Pennsylvania domiciled equipment in that carrier. We take equipment domiciled in Nebraska in there, and we are a target. I can tell you that there is discrimination and there is selective enforcement.

Now, let us look at S. 1391. It does not say just give the trucking industry—I am like Senator Exon, and he knows it. I believe in state rights. Senator Karnes, I know, believes in state rights. All of us do, but it does not say just let the trucking industry run wherever they want to. It says that there is a presumption that it is 10 feet or over on the width of the traveling portion of the pavement, then there is a presumption that you are fit to operate the 48'/102". So 102 inches in width on a 120 inch pavement, that is all it says.

It also goes further and says there is a presumption that you cannot do it if it is narrower than the 10 feet or 120 inches. This bill is not what we thought we were getting, but it would bring uniformity.

I only say the small communities are simply the ones that are really going to have a lot of problems, because they are where we are having a problem getting into. That is where we need jobs. That is where we need to keep people, is production in these small communities.

I would like to close by telling you one thing about what we found in Georgia. We were having a tremendous amount of problems at Carrollton, Georgia. There are two manufacturers that we serve there.

Carrollton, Georgia, if you have driven that route from Atlanta to Carrollton, is wide, broad, straight roads; but if we operate an old style trailer we can be 65 feet in length. If we operate the new style trailer, we can only be 60 feet. We were having tremendous problems and a number of tickets, the Georgia DOT waited there as we came into the plant gate.

My friend Eddie Trout from Omaha, who is serving that state, said, gee, I know how we did it. We serve a plant in Georgia. The Georgia plant manager went to the State Senator. The State Senator went to the Georgia DOT, and now we can operate into that plant.

It is such a hodgepodge. There is no uniformity. S. 1391 brings some common sense. It does not give away the ship. I would only ask the Senate if they would consider passing it because I think it is important in economic development, I think it is important in

uniformity, and it would give us something that we thought we got in 1982.

Thank you very much.

Senator EXON. Thank you, Mr. Acklie.

If we could just wait for a moment and delay the testimony of Mr. Schneider and Mr. Stedman. We have a vote at 11:00 a.m., and I know that my colleague and I will have to leave for that vote. I will return, and we will try to keep this going. But with the busy schedules we have, I am not certain that Senator Karnes would be able to join us afterwards because I know he has a very busy schedule.

I have just one question. I was very pleased to see my colleague, Senator Karnes, and my friend, Mr. Acklie, drive home once again that if there is one state in the union that has been for state's rights over and over again, I think Nebraska has stood in the forefront of that. That goes regardless of the fact which political affiliation we happen to be identified with.

In case you do not know it, I am a Democrat and I suspect that you do not know that both Mr. Karnes is a Republican, and Mr. Acklie is also a Republican. So it transcends party lines.

I do think though, as Nebraskans, we have the responsibility to be forceful, to try to have a better understanding of the grave difficulties that we are seeing with regard to the access problem that have a definite adverse effect on businesses large and small, inside Nebraska, outside Nebraska and in between the two points. The same is true for every other state in the union. That is why this matter is so important.

I would just like to call to my friends' attention and that of the members of the committee as a whole that we have got to do a better job, I guess, than we have in the past with explaining the situation and driving it home and now allow the business of states rights to get in the way.

I wish to read into the record without objection a letter dated September 28, 1987, from the National Governors Association. It indicates clearly to me that the adverse effect that this access problem has is probably not generally understood by the governors.

I quote from that letter.

> We are writing to express our concern with the provisions of the motor carriers lmitations under consideration in the Fiscal Year 1988 Transportation Appropriations Bill.
>
> We understand that while the motor carriers must have reasonable access to the interstate and primary highways designed for use by longer, heavier and wider trucks, states must retain adequate authority to regulate safe and efficient routing for class of vehicles.
>
> Earlier this year as part of the Surface Transportation Uniform Relocation Act of 1987, the Congress directed the Transportation Resource Board, TRB, to examine the issue of reasonable access. These findings are critical to any final rulemaking by the U.S. Department of Transportation concerning the definition of "terminal."
>
> We believe that any changes in the current system should wait for results of the TRB study.

I would point out that the results of the TRB study are not due until July 1, 1989.

Quoting again from the letter:

> Therefore, we urge you to allow the current system to operate, particularly because it already provides effective remedies for rectifying motor carriers' objections to state decisions on reasonable access.

We will work with our fellow Governors to promote full state compliance with the spirit of the law. It is essential, we believe, that states seek full consultation with the motor carrier industry as they proceed with important decisions regarding safety on our nation's highways.

That letter is signed, sincerely, Governor William O'Neil of Connecticut, the Chairman of the Transportation Commerce and Communications Committee, and by Governor Kay Orr of Nebraska, Vice Chairman of the Transportation Commerce and Communications.

I think that it would be incumbent upon us as Nebraskans to call upon our governor to have a better understanding of the problem than evidently she does at this time, because we are all very much concerned about promoting additional businesses that prosper not only for Nebraska but other states of the union.

This basically is an issue of whether or not we are going to have free and open commerce for the good of all. I would hope that my two colleagues from Nebraska would join with me in our efforts to try to have a better understanding of this and call upon the governor to take another look at this.

My question of you is do you believe, as was suggested in this letter, that we can possibly wait until July 1, 1989 for the TRB report?

Mr. ACKLIE. I would only answer and say yes, we can wait, but it is going to cost the nation an untold amount to wait.

It is a terrible problem. It is increasing. We see Massachusetts, for example, only start in December 1987. We are now faced in California, where this permissive legislation permitting every municipality to adopt a permit fee. We are going to have tollgate after tollgate after tollgate if some action is not taken.

Senator EXON. Do you think it would be wise, Mr. Acklie, as I suggested, for those of us who are involved in this problem and who have a better understanding of it to have a responsibility to carry this message back to everyone in our states including in the case of Nebraska, we Nebraskans who want to work with our governor to help promote industry and free access?

Mr. ACKLIE. Senator, I do. I think the Nebraskan motor carriers had not had a chance to fully brief the Governor. We probably did not see it coming. We probably did not brief our governor. We have briefed her now, and she is apprised of the problems.

Senator EXON. I am very glad to hear that, and that is very helpful.

Senator Karnes, did you have anything to add to that?

Senator KARNES. Just, Mr. Chairman, that if anyone can appreciate the relationships between states rights and an issue of this nature as someone as yourself, who has filled the shoes of a governor of a state and know that there are parochial interests that need to be protected, then I will make sure that this item is discussed between myself and the governor at our earliest opportunity, and I appreciate your comments in having her letter read into the record.

Senator EXON. Thank you very much, Senator Karnes, and thank you, Mr. Acklie.

[The statement follows:]

STATEMENT OF DUANE W. ACKLIE, PRESIDENT, CRETE CARRIER CORP. AND INTERSTATE CARRIERS CONFERENCE

IDENTITY OF RESPONDENT

My name is Duane W. Acklie of Lincoln, Nebraska and I appear here today in support of S. 1391. I am President and Chief Executive Officer of Crete Carrier Corporation, Lincoln, Nebraska; Vice Chairman of Sunflower Carriers, Inc., York, Nebraska, Chairman of Shaffer Trucking, Inc., New Kingstown, Pennsylvania and Chairman of HTL Truck Line, Council Bluffs, Iowa. These carriers, hereinafter called Crete, are commonly-owned and managed motor carriers operating in interstate commerce in all 48 continental states transporting a wide variety of foodstuffs, medical supplies, automobile parts and general merchandise.

I also appear on behalf of the Interstate Carriers Conference, affiliated with American Trucking Associations (hereinafter referred to as Conference), a national trade association for irregular route common and contract carriers. The Conference represents 600 truckload carriers nationwide with its members primarily domiciled in the 48 continental states.

The Conference and its members are committed to motor carrier safety and promote programs that exceed government safety mandates. The Conference is currently promoting efforts of the Professional Truck Driver Institute of America (PTDIA) to substantially strengthen the standards for truck driving schools across the United States. The Conference is also initiating an apprenticeship program with the Department of Labor to ensure further quality on-the-job driver training upon completion of formal truck driving school training. We are vitally concerned with the safe operation of motor vehicle equipment on the nation's highways.

FACTS

Crete vividly remembers December, 1982 when the Surface Transportation Assistance Act (STAA) was passed just before the year end recess. Substantial fuel and heavy vehicle use taxes were imposed on the trucking industry more than doubling our taxes with the understanding that the motor carrier industry would be authorized to utilize larger trailers which were 48-ft. in length and 102-in. wide. A number of states previously permitted trailers of 48-ft. or longer to be operated and the nation's bus industry has operated for a number of years equipment that is 102-in. in width. Therefore, the dimensions of the new trailer standard set by Congress is not radically different from the previous standard. The new standard permitted additions of 6 inches in width and 3 feet in length from what had been the industry standard.

Crete operates in excess of 3000 trailers. At the time of the enactment of the STAA in 1982, all of its trailers were late model 45-ft. by 96-in., all capable of hauling the same weight that we haul today.

In early 1983, trade journals carried the message that it was lawful to operate 48-ft. by 102-in. trailers on the nation's highways. Requests were made by many of our customers as to what we were doing to get the more productive trailers in order to retain our existing business. We found it necessary to trade all of our late model trailers for the new standard set by Congress. The average cost of the new 48-ft. dry van trailers was $18,000, of which we purchased approximately 2,000, for a cost of approximately $36 million. The new temperature-controlled trailers 48-ft. in length had an average cost of $34,000 for 1,000 trailers, or $34 million. Our new sized trailers had a total cost of approximately $70 million. Our trailers that were traded in or sold brought about $19 million, with a net cost to our modest-sized companies of $51 million. Intense competition prohibited any increase in rates as a result of the larger trailers.

Industry journals gave the first indication in late 1983 and early 1984 that there were problems operating trailers of the new dimensions in various states. Our first recorded fine was issued by the Commonwealth of Pennsylvania on March 29, 1985, for an overwidth trailer. Our first fine for an overwidth trailer occurred in Georgia on February 13, 1986. Our first fine in the State of New York for an overlength combination vehicle occurred on March 24, 1986. Our first fine in the State of Kentucky for an overwidth trailer occurred on April 16, 1986. In mid 1986 we started to be fined in Georgia for an overlength combination of tractor and trailer even though they were under 65-ft. in length. It was explained to us by the State of Georgia that whenever a trailer was 102-in. in width that you could not have over 60-ft. in length. The previous standard in our industry had been 65-ft. but it apparently no longer applied in Georgia when utilizing 102-in. width trailers.

In 1987 the Commonwealth of Pennsylvania doubled their fines for overwidth trailers. The State of New York now issues tickets to us where we are fined $100 for overwidth and $100 for overlength plus costs or a total of approximately $250 for a 48-ft. by 102-in. trailer. The costs of fines are steadily rising.

On December 3, 1987, we received our first fine in Massachusetts for overlength trailers but were told that we could pay a $50 permit for each of our trailers to operate in Massachusetts. Crete operates limited miles in the Commonwealth of Massachusetts but we never know when a shipper will load one of the trailers to Massachusetts. It would therefore by necessary for Crete to get a permit for all 3,000 trailers at a cost per year of $150,000 to operate its trailers in Massachusetts. We are also concerned and have watched closely legislation in the State of California which appears to authorize each municipality the right to issue permits and charge fees for the new sized trailers operating through the municipalities. We soon will have municipal toll gates in addition to state toll gates.

The STAA legislation of December 1982 is sometimes referred to in the motor carrier industry as the Christmas massacre.

It is my opinion, based upon being involved with carriers domiciled in different states, that states are more prone to issue tickets to out of state domiciled carriers than to locally based carriers. In addition, in the State of Georgia, management of one of the manufacturing plants in the state have conversed with the local state senator who in turn conferred with the Georgia Department of Transportation and tickets are no longer being issued going into that specific plant. Selective and discriminating enforcement exists as to access.

Effective October 30, 1984, 49 U.S.C.A. § 2312 granted reasonable access to the interstate system and terminal facilities for food, fuel, repairs, rest, and points of loading and unloading for household good carriers and for any truck tractor semi-trailer combination in which the semi-trailer has a length not to exceed 28½ ft. which generally operates as part of a vehicle combination. Many of your large household good carriers today transport the very same commodities that Crete transports, yet they are granted reasonable access. The carriers that I work for do not have the same privileges. Congress was correct in granting household good carriers reasonable access but it places at a competitive disadvantage other carriers who transport the same commodities.

DISCUSSION

Your Respondent is a strong believer in states' rights. In all but approximately eight states in the United States reasonable access for 48-ft. by 102-in. trailers has been granted on a statewide basis or on a basis which does not cause the trucking industry any problems. In law school we were told that the interstate commerce clause was to promote uniformity and standardization so as not to hinder interstate commerce. Although I am a law graduate and practiced for 12 years before coming to the motor carrier industry, I cannot tell you or even advise a driver as to what they should do in these states to pick up and deliver goods at manufacturing plants and to consumers' places of business. I think I can safely say most of these roads are not posted and some states issue books that are over 80 to 90 pages, that are at the least complex.

With the current hodgepodge of state and local government rules dictating access for 48-ft. by 102-in. trailers, a truckload carrier operating across the nation must deal with countless restrictions defining access for 48-ft. by 102-in. trailers. An irregular route truckload carrier cannot change equipment at terminals or break down loads at terminals as do less-than-truckload operations. By marketplace definition, a truckload carrier loads at one point and unloads at a second point with nothing in between except the linehaul.

Certain states such as New York, Pennsylvania and Massachusetts have instituted cumbersome and time consuming schemes whereby carriers must request permission from the State DOT to gain "reasonable access" to state highways connecting the National Primary Network to terminals beyond a mere fraction of a mile. The economic advantage of truckload carriers is based on their ability to respond to a shipper's request at a moment's notice. Therefore, the permit system is simply not workable for truckload carriers. Although a federal court in Pennsylvania has struck down the Pennsylvania scheme as violative of the STAA, the case is on appeal and a myriad of other state laws exist such that a satisfactory judicial solution to this problem is unlikely.

S. 1391 IS BALANCED AND EQUITABLE LEGISLATION

S. 1391 is a common sense approach required to promulgate reasonable guidelines to the states. It is designed not to pre-empt states' rights, but to allow for liberal state and local input. Specifically, S. 1391 takes a common sense approach to the access problems by creating a continuum whereby the narrower the road the stronger the presumption that longer and wider trucks should be prohibited; the wider the highway the stronger the presumption that trucks should be granted access. Although width of a road is not the only factor affecting the ease by which a 48-ft. by 102-in. vehicle can be safely accommodated, it is clearly the major factor.

S. 1391 draws and expands on the formula already established in the 1982 STAA. In the 1982 Act a presumption exists that STAA approved equipment should be granted access to the nation's Interstate and National Primary Network system, which includes the Interstate Highway system and major designated state highways. Reserved to the states is the power to demonstrate to the FHWA that such acess should be denied or restricted in some manner if valid safety concerns can be shown. State have successfully exercised this power, and this provision has been a feature of the STAA.

Similarly, S. 1391 sets presumptions rather than rigid rules. State highways with lanes 10 feet or wider that connect the National Network to terminals would be presumed fit for STAA-approved vehicles. This presumption would be subject to rebuttal by either state or local government.

Specifically, state and local governments would be granted the opportunity to demonstrate through clear and convincing evidence that a particular route required vehicle registrations. On reaching this conclusion the state or local government would have to consider the following four factors: (1) the effect of such a restriction on neighboring communities and states that might be affected; (2) the burden on interstate commerce; (3) whether an alternative route exists, is as safe, and is not unduly circuitous; and (4) whether facilities for fuel, repair, food, and rest are regularly available on the alternative route.

Surely it is fair and reasonable to require local and state governments to weight these four common-sense factors before reaching a final conclusion as to the safety of a state highway with 10-foot lanes for 48-ft. by 102-in. vehicles. Even with these four required factors, state and local governments possess in S. 1391 a strong and important safety valve to prevent STAA approved vehicles from gaining access on unsafe roads.

Furthermore, S. 1391 would reverse the presumption for state highways with lanes less than 10 feet wide. In this case, it would be the motor carrier who would have to demonstrate that despite the narrowness of the road, STAA-approved vehicles could be safely accommodated.

S. 1391 defines "terminal" as "any facility where freight is loaded or unloaded or where a commercial motor vehicle subject to this chapter is manufactured or regularly maintained." While this definition is more expansive than that adopted by some states, it is necessary in order to accommodate the movement of property in interstate commerce. It is not practical or possible for the truckload carrier to travel the interstate highway system in one type of vehicle, and then to transfer, or break bulk, before final delivery in a smaller vehicle.

As previously mentioned, the 1984 Amendment (49 U.S.C.A. § 2312) already allows access to points of loading, unloading, and facilities for fuel, food, repairs, and rest for household good carriers. It does not limit it to movements of household goods but specifically permits access for household good carriers who after deregulation transport truckload traffic the same as the carriers I represent. In fact, S. 1391 as set forth above gives greater safeguards to the states.

Only Congress or the Secretary of Transportation, through the Federal Highway Administration, can correct the problems of access that are turning into an epidemic. Interstate commerce and uniformity will have no meaning unless S. 1391 becomes law. S. 1391 does not give the trucking industry the access we thought we received when our taxes were doubled in December, 1982, but is a reasonable compromise balancing all parties' interests. Your assistance is truly needed in adopting the proposed legislation.

Senator EXON. Mr. Schneider, we will proceed with you.

STATEMENT OF DONALD SCHNEIDER, PRESIDENT, SCHNEIDER NATIONAL

Mr. SCHNEIDER. Thank you, Senator. I am Don Schneider. I am President of Schneider National. We are a truckload carrier that operates throughout the 48 states. We operate about 4,300 road tractors and about 9,000 trailers. We move about 10,300 truckloads per week. We have about 6,500 employees. This year, 1988, our vehicles will run approximately 500 million miles in these 48 states.

We operate through operating centers throughout the United States. The corporate headquarters, my home, is Green Bay, Wisconsin.

When the Surface Transportation Act was passed in 1982, we understood the fact that we were going to be paying higher taxes both in the form of fuel taxes and in the use tax. In return, we expected to get the ability to recoup some of that from the use of more productive vehicles, both wider and longer.

In addition to that, a very important aspect of that bill was our attempt to get uniformity throughout the 48 states. What has happened is that we now have more complexity rather than less because we have moved to the 48/102s, and now these are the vehicles that we are trying to run throughout the United States, with much difficulty.

I think it is important to understand how the cost and the complexity affect the ability to move interstate with a truckload carrier.

We have in excess of 400 drivers. They live in many, many different states, and they move from one state to another. It is virtually impossible for each one of those drivers to understanding a particular state what particular roads he can run on or not run on. He does not have the ability to carry with him information that would allow him to do that.

We serve in excess of 10,000 shippers alone. Many of these shippers ship to all 48 states and to many communities in each one of these states. It is impossible before they load a vehicle to understand that particular state and that destination and how that truck is going to get there. So they just ship it anyway.

It is impossible for a carrier to have two sets of vehicles, one that would comply with the minimum requirements, say 45/96, and the other 48/102s. You would always have the wrong vehicle at the wrong locations. In addition to that, the fleet of equipment you would need would be far too prohibitive for a very efficient transportation system.

Let me cover briefly a couple of situations just to explain what happens. Recently, in Massachusetts we had a situation in which a driver was making a delivery to Colrain, Massachusetts. This is 16 miles off of Interstate 91. He was stopped by the state police, and he was forced to take a load 65 miles away from this location and load it on two smaller vehicles, and then it was delivered back to that particular destination at a freight charge of $612 to us in addition to the delays and the lack of equipment utilization.

In another example, on April 20, 1987, our driver, Don Mitchell, was making a delivery to a company called Specialty Products in Auburn, Massachusetts. This was two miles off of I-90. He turned

off, stopped at a truck stop on Highway 20, which is about a mile from the customer. When he came out after he had eaten his lunch, the trailer was impounded and the state police did not allow him to go any further.

Upon questioning, the police said, well, if you were going to be delivering to a truck terminal, we would allow you to continue on.

He said, well, I can see my customer down the road. That road is perfectly safe.

They said, we are sorry but you cannot go on. It is because it is not classified as a truck terminal. It is a customer.

In Pennsylvania we have a customer, a light paper products manufacturer, that we cannot get to from either the west or the south. We have to enter, because of the road restrictions that Pennsylvania has placed on those roads, from the east. Last year we ran an additional 270,000 miles to serve this particular customer.

The issue of safety we do not think is an issue here. We operate all size vehicles, 45/96 and 48/102s. Our safety record is no different for any of these particular types of vehicles. In my statement you will find a number of statements from drivers that indicate that the extra six inches or the extra three feet is not a safety issue.

A real safety issue is the confusion and complexity that they are constantly dealing with in trying to figure out by stopping and trying to get information whether they can run to that particular location or not and, as a result, taking it off of safe driving.

As I result, I, as an individual, and our company support wholeheartedly your bill to clear up this intolerable situation.

Thank you.

[The statement follows:]

STATEMENT OF SCHNEIDER NATIONAL, INC.

IDENTITY AND BACKGROUND OF COMMENTING PARTY

Schneider National, Inc. (Schneider) is the parent corporation of a number of wholly owned affiliated interstate common and contract motor carriers. These include Schneider Transport, Inc. and Schneider National Carriers, Inc., both dry freight haulers operating van trailers. In addition to van operations, Schneider is engaged in transporting commodities in bulk in tank and hopper type trailers through Schneider Tank Lines, Inc. and Schneider National Bulk Carriers, Inc. Finally, Schneider conducts heavy haul and specialized transportation service on flatbed, "double drop", and specialized trailers through International Transport, Inc.

Each motor carrier engages in irregular route operations transporting freight directly from shipper to consignee without intervening terminal operations. Each operates throughout the continental United States.

Schneider, through one or more of its various wholly owned affiliates, has provided trucking services continuously since the mid-1930's. At present, Schneider incurs more than a million miles each day. Schneider operates in excess of 4,000 tractors and roughly 9,000 trailers, including nearly 5,500 trailers longer than 45-feet and/or 102-inches in width. We have nearly 6,500 employees and drivers. In 1988, we will run approximately 500,000,000 miles. We move about 10,300 truckloads per week. Schneider clearly has a substantial interest in securing uniform reasonable access for its vehicles.

POSITION OF THE COMMENTING PARTY

Schneider strongly supports adoption of S.B. 1391. It has been six years since passage of the STAA which, in return for dramatically higher taxes, promised uniform state minimum vehicle length and width restrictions and reasonable access. The taxes have come to pass. Uniform reasonable access has not come to pass. Instead, carriers have been faced with a plethora of confusing and conflicting state restric-

tions and a policy by FHWA that seems to be to study the matter to death while allowing the individual states to decide what is reasonable. In addition to dramatically higher taxes, the motor carrier industry has been left with tickets, fines, the impounding of vehicles, lawsuits, and costly new state permit requirements.

We believe that S.B. 1391 appropriately recognizes legitimate safety concerns while facilitating the productivity gains originally contemplated by Congress in adopting the STAA. We therefore urge its immediate adoption.

COMMENTS

As a result of the STAA, Schneider has, to date, incurred a net increase in federal highway taxes of in excess of $14 million. As was expected, a number of states have used the authorization of STAA vehicles as a basis for increasing state taxes as well.

The dramatic increases in taxes were to be offset by increases in productivity associated with use of trailers of such dimensions (48-feet in length, 102-inches in width) as were first authorized by the STAA (so-called STAA vehicles). Congress recognized that local interests and prejudices, if left unaddressed, would prevent achievement of many of the promised productivity gains. In recognition of this, Congress provided, at 49 U.S.C. Section 2312, that no state may deny reasonable access.

In reliance upon this, Schneider has invested nearly $90 million in STAA equipment. Despite the STAA's promise of uniformity, as a result of the FHWA's interpretation of the STAA, we've been unable to obtain anywhere near the productivity gains that were promised. To the contrary, we've been ticketed, fined and had vehicles impounded while making deliveries in some instances not more than a mile or two from the interstate. In this regard, your attention is directed to the Statement of Donald Mitchell, attached hereto as Exhibit 1.[1] Therein, he describes an experience that has become all too common.

As the FHWA has recognized, the restrictions imposed by the states and their political subdivisions on access to the national network "are many and varied". FHWA Docket No. 87-1, Truck Size & Weight: Reasonable Access. 52 F.R. No. 2. For example, Maryland allows no access from and to the interstate to points of loading and unloading. Pennsylvania restricts access to ⅔oths of a mile. In a number of states, access is limited to ½ of a mile. The only thing that is "uniform" about access is that the states have uniformly done just about whatever they felt like doing. Allowing the states to individually interpret the term "reasonable access" simply hasn't worked. Unless Congress defines reasonable access, we will never realize the productivity gains that were promised as the quid pro quo for increased taxes.

The role criterion for limiting access must be safety. Canada, as well as a number of New England and Western States, allowed 102-inch wide trailers for a number of years preceding the passage of the STAA, without apparent problems. Since passage of the STAA, a number of other states have also allowed 102-inch wide equipment statewide, again with no apparent problems. That is consistent with our experience. We have not witnessed any significant increase in accident involvement with STAA vehicles.

As the statements of our drivers, attached hereto as Exhibit 2, indicate, the 6-inch difference in width simply doesn't make much difference. Any problem with rear vision is eliminated merely by adjusting the trailer mirrors. We believe that S.B. 1391 adequately addresses the concern about 102-inch wide vehicles by excluding routes which generally or substantially have lanes less than 10-feet wide.

Similarly, it has been our experience that overall length, in and of itself, is not a significant safety factor. It is a vehicle's maneuverability, not its length, which determines its safety. Again, as the statements of our drivers indicate, the maneuverability of a vehicle is determined primarily by the positioning of the vehicles' axles. By reducing the distance between the kingpin and the rear axles, maneuverability is enhanced. We are not convinced that specific limits on the distance between a kingpin and rear axle are necessary since routes which generally or substantially have lanes less than 10-feet in width are subject to special examination. If, however, additional restrictions should be required, a reasonable, *uniform* kingpin rear axle limit, rather than strict length restriction or set mileage limit, should be applied. Mere length restrictions and set mileage limits are, in our view, inappropriate since they fail to consider either lane width or vehicle maneuverability.

We also support S.B. 1391's definition of the term "terminal". As indicated previously, Schneider's wholly owned affiliated motor carriers are all "irregular route" carriers. That is, they operate directly from the shipper to the consignee. In the case

[1] The exhibits were not reproducible.

of International Transport, Inc., the consignee's facility is often a jobsite. For the other Schneider carriers, the delivery point is a customer owned shipping and receiving facility. In some instances, the customer's facilities are located virtually adjacent to motor carrier terminals. (See statement of Donald Mitchell.) Since, however, we would be delivering to a shipper facility rather than a carrier terminal, under the current definition imposed by certain states we are unable to complete delivery despite the fact that identical or virtually identical routes would be utilized.

Congress clearly did not intend such an illogical result, nor did Congress intend to grant a preference to regular route carriers at the expense of irregular route carriers. The characterization of the receiving facility certainly has no effect on safety. What matters is the route itself. If the productivity gains promised by the STAA are to be realized, states may not be allowed to use a restrictive definition of the term "terminal" to effectively deny reasonable access.

Although the various state restrictions are usually defended on the basis of safety, more often than not proponents of such restrictions view them in isolation. STAA vehicles offer a 20-30% increase in available loading space. Use of STAA vehicles thereby reduces overall truck traffic. Conversely, inappropriate state restrictions on STAA vehicles increase truck traffic. Equally, if not more important, as the statements of our drivers indicate, the current hodge-podge of state restrictions are, in and of themselves, a major source of distraction, stress and safety concern. Compliance with them is simply impossible. In the words of our drivers:

"Make it uniform from one state to another. Safety will be improved by removing the 'gray' areas. An informed professional driver can make our highways more safe for everyone."—Statement of Thomas M. Cloven.

"Anyone who runs 48 states and runs over 100,000 miles a year knows what safety is. The laws that some states impose lack in uniformity which add to the safety problems, not reduce it."—Statement of William Baker. The only way true safety will be enhanced and the promised productivity gains be realized is if Congress adopts interpretations of the terms "reasonable access" and "terminals." We believe that S.B. 1391 represents an appropriate recognition of safety considerations while at the same time prevents local interests, prejudice, and simple misinformation from restricting the use of STAA vehicles in an inappropriate manner. We therefore urge the Senate to adopt S.B. 1391.

Senator EXON. Mr. Schneider, thank you very much.

Mr. Stedman.

STATEMENT OF THOMAS STEDMAN, VICE PRESIDENT, NATIONAL PRIVATE TRUCKING ASSOCIATION

Mr. STEDMAN. Good morning, Mr. Chairman and members of the subcommittee. I am Thomas R. Stedman, Vice President of the National Private Trucking Association, referred to as the NPTA, and also Director of Corporate Transportation for the Walgreen Company.

On behalf of the NPTA, I would like to thank the subcommittee for the opportunity to appear here today to share some of the problems NPTA members have experienced in obtaining reasonable access for the longer and wider vehicles authorized for use by the Surface Transportation Assistance Act of 1982.

As I pointed out in my detailed written statement, obtaining reasonable access continues to be a problem for our members. Several states chief among these are California, Georgia, Iowa, New York, and Pennsylvania.

A survey of our members has shown that we continue to be denied access to our terminals and other facilities and those of our customers. For example, in a number of situations, restrictions of the distances we are permitted to travel off of the national network have been so limited there might as well be no access at all. Some members have also been subjected to time of day restrictions which

are incompatible with their operations and those of their customers.

Economically, a denial of reasonable access is extremely costly. Using or receiving services performed by STAA vehicles can reduce transportation costs as much as 25 percent. Some of the most adversely affected companies among NPTA members are those companies engaged in the production and/or sale of food and other consumer products. So the public is also being hurt whenever access is unreasonably being denied.

As I described in my written statement, restrictions on the access of our STAA vehicles have had a direct and costly impact on the operation of Walgreen's. Last year we made a considerable effort to reduce the number of deliveries to our stores by attempting to consolidate New England bound shipments from our distribution center in Orlando, Florida with shipments from a public warehouse in New Haven, Connecticut.

The Orlando center is used primarily for shipments of basic, everyday products, whereas the New Haven warehouse is used for promotion merchandise.

To be the most efficient, the shipments should have been consolidated in New Haven, but we could not operate our drivers into that state because they were not licensed or qualified; therefore, we looked to perform the consolidation at an outside terminal, and we found one in Newburgh, New York.

Since our stores receive weekly shipments of about 350 cases of everyday products and 150 cases of promotional merchandise, consolidation at the Newburgh terminal would have been highly beneficial; however, the location that we found is located 2,000 feet from Interstate 84, and New York State prohibits access beyond 1,500, which meant we were prevented from consolidating our Orlando and New Haven shipments at the Newburgh terminal.

Even though Walgreen's has since licensed drivers in Connecticut, the problem has still not been solved. The warehouse in New Haven is located two miles from the interstate, and Connecticut prohibits access beyond a mile; therefore, instead of being able to enhance our efficiencies by operating a standardized fleet and consolidating our shipments, Walgreen's has been forced to run two separate fleets to service the Orlando and New Haven shipments, one fleet consisting of the more efficient twin 28s, and the other fleet consisting of 45/96 trailers.

Clearly, the difficulties Walgreen's and other NPTA members have experienced could not possibly be what Congress envisioned when it enacted the STAA. If carriers, shippers and the public are to really take advantage of the increased productivity that was supposed bestowed by the bill in 1982, Congress needs to act now.

We feel that S. 1391 is a reasonable balance between the competing concerns that have precipitated the access problem in the first place; in safety, productivity and states rights. The members of the NPTA urge serious consideration be given to the prompt passage of S. 1391.

Mr. Chairman, this concludes my formal comments. Thank you.

[The statement follows:]

STATEMENT OF THOMAS R. STEDMAN, VICE PRESIDENT, NATIONAL PRIVATE TRUCKING ASSOCIATION

INTRODUCTION

I am Thomas R. Stedman, Vice President of the National Private Trucking Association ("NPTA"). On behalf of NPTA, I welcome the opportunity to appear today to share with the Subcommittee some of the difficulties NPTA members have experienced obtaining reasonable access for the longer and wider vehicles authorized for use by the Surface Transportation Assistance Act ("STAA"), and the amendments enacted thereto in the Tradem Truck Safety Act of 1984 (hereafter collectively referred to as "STAA," as amended), 49 U.S.C. § 2312.

NPTA is the national association of manufacturers, processors, distributors, and retail establishments that operate their own fleets of commercial motor vehicles incidental to an in furtherance of their primary, non-transportation business enterprises.

NPTA's membership is comprised of more than 2,100 national and regional corporations, and includes many of the Fortune 500 companies. In their primary, non-transportation capacities, NPTA members are involved in the manufacture, processing, distribution and/or sale of virtually every commodity being either produced in, or imported into, this country. The produces of NPTA members include chemicals, electrical products, food and related commodities, wood products, metal fabrication, paper and allied goods, petroleum and petroleum products, rubber and plastic products, and textiles and apparel.

Private carriers represent a significant part of the trucking industry. Overall, they account for approximately 60 percent of the annual intercity truck ton mileage, and operate a combined fleet estimated to number six million vehicles.

In terms of company and private fleet sizes, the types of equipment being operated, sources of drivers, fuel efficiencies, location of operations, annual mileage traveled, and other such analytical factors, the operations of the individual members of NPTA are representative of the interstate motor private carrier industry overall.

Many of NPTA's members have also obtained operating authority from the Interstate Commerce Commission and are engaging in interstate for-hire operations and contract or common carriers.

In the aggregate, NPTA's members represent the interests of private carriers, shippers, and for-hire carriers. And, it is in one or more of those capacities that the members of NPTA—and therefore the public—have been affected by the denial of reasonable access by state and local governments.

In addition to being a Vice President of NPTA, I am the Director of Corporate Transportation for Walgreen Company ("Walgreens"), which is headquartered in Deerfield, Illinois. In that capacity, I am responsible for a private truck fleet consisting of 93 tractors and 255 dry van trailers, including 35 48-foot long x 102 inch wide trailers and seventy 28-foot x 102 inch twin trailer combinations. Our fleet operates nationwide, transporting drugs and toilet articles to our plants and finished products to our customers. On average, our trucks travel in excess of 12 million miles annually.

THE SURFACE TRANSPORTATION ASSISTANCE ACT INTENDED TO CONFER ACCESS FOR STAA VEHICLES

When it enacted the STAA in 1982, and the subsequent amendments in 1984, Congress had as one of its primary objectives the enhancement of truck productivity. This was to be achieved, without consequential diminishment in safety, through the use of longer and wider commercial motor vehicles commonly known as "STAA vehicles." As the legislative history to the 1984 amendments observed:

"Trucking companies point[ed] to important productivity gains which will result from the new uniform limits, once in place nationwide . . . [and] that safety is enhanced due to the need for fewer trucks to be operated on the road, given the increased cargo capacity of the larger trucks."—S. Rep. No. 98–505, 98th Cong. 2d Sess. 1 (1984).

To achieve that increased productivity, therefore, Congress did several things. First, it "set[ ] minimum nationwide truck length limits of 48 feet for the semitrailer unit of a truck tractor-semitrailer combination and 28 feet for the trailer or semitrailer operating in a truck tractor-semitrailer-trailer combination", id. at 2, and prohibited state and local governments from doing anything to restrict or otherwise limit the operation of such dimensioned vehicles on any of the Interstate Highways or Federal-aid Primary highways specifically designated by the Secretary of Transportation as part of this "National Network" of highways established for use

by STAA vehicles. See 49 U.S.C. § 2311. Second, Congress "established a nationwide width standard of 102 inches for motor vehicles", S. Rep. No. 98-505, supra, at 2, being operated on the National Network, and similarly preempted the state and local governments from restricting the operation of 102 inch wide vehicles on the National Network of highways. See 49 U.S.C. § 2316. Finally, and perhaps most important, to ensure that an effective use of the more efficient STAA vehicles would be achieved, without compromising safety, Congress prohibited state and local governments from denying "reasonable access" between the National Network and:

"Terminal, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers and for any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 28½ feet and which generally operates as part of a vehicle combination described in section [2311(c)] of this title."—See 49 U.S.C. § 2312.

Restated in context of the trucking industry's routine daily operations, Congress required "reasonable access" for STAA vehicles under the following circumstances:

Access from the National Network was required for 48 foot x 102 inch semitrailers and 28½ foot x 102 inch twin-trailer combinations to reach locations for food, fuel, repairs, and rest;

Access from the National Network was required for 48 foot x 102 inch semitrailers and 28½ foot x 102 inch twin-trailer combinations to reach terminals; and,

Access from the National Network was required to reach places of loading and unloading (in addition to terminals) for 28½ foot x 102 inch semitrailers ("pups") operated by private and for-hire carriers generally, and for 48 foot x 102 inch semitrailers specifically operated by household carriers.

What specifically was to constitute "reasonable access", or the denial of same, however, was not defined by Congress in the statute. State and local governments have been left to grant or deny access as each has seen fit, and effectively without having to concern themselves on the economic impact that their individual decisions would have on carriers and shippers.

CONGRESSIONAL INTENTIONS ARE NOT BEING FULFILLED

For NPTA's members, obtaining reasonable access has been a significant problem in a number of states. Chief among these has been California, Georgia, Iowa, New York and Pennsylvania.

In response to a survey of our members last year, 69 percent of those responding indicated they were experiencing access problems. And, more than fifty percent of those carriers advised that they were being forced to refrain from making further purchases of STAA vehicles. At the same time, the responses indicated that, in those jurisdictions in which they could use STAA vehicles, their safety experience was the same as, in some cases better than, their accident experience using non-STAA vehicles.

The access problems our members have experienced have taken a number of different forms, and, if nothing else, state and local governments should be commended on the length and breadth of their imagination. There have been outright denials of access to NPTA members' terminals and other facilities as well as to those of our customers. NPTA members have encountered restrictions on the distance they can go from the National Network to gain access to terminals, facilities for food, fuel, repairs, and rest, to say nothing about their ability to reach points of loading and unloading. In a number of instances, the distance that one is permitted to travel off of the National Network has been so limited as to be tantamount to a grant of no access at all. Similarly, NPTA members have been subjected to time-of-day restrictions so thoroughly incompatible with their operations, or the non-transportation businesses of their customers', that compliance with the time-of-day restrictions winds up costing more using STAA vehicles then using non-STAA vehicles.

State and local governments have also imposed a variety of cumbersome and time-consuming permit requirements—both with and without fees—or requiring carriers to obtain access approval on a route-by-route and/or company-by-company basis. That this can result in the denial of access for an inordinate amount of times demonstrated by the experience of one NPTA member who reported having to wait over nine months before receiving a permit in New York State. New York has a 76-page publication designating routes on which STAA vehicles may be operated, but in no case more than 1500 feet from the National Network; each route had to be preapproved and specifically designated. Similarly, in Pennsylvania, carriers have had to comply with a lengthy permit process for each and every route in order to gain access from the National Network of 2/10's of a mile. The result has been an 86-page listing of Pennsylvania-approved access routes, which is itself divided into

seven sublists of access routes authorized on the basis of vehicle type. For example, some routes are authorized for all STAA vehicles, while others are authorized only for 48 foot x 102 inch semitrailers, or 28 foot x 102 inch twin-trailer combinations.

Economically, the denial of reasonable access has been, and will continue to be, extremely costly to NPTA's members and, therefore, to the public. NPTA's members report that by using, or receiving services performed in, STAA vehicles can reduce transportation costs between ten and 25 percent. Since some of the most adversely affected companies among NPTA's membership are companies engaged primarily in the production and/or sale of food and other consumer product lines, it should quickly become clear that the public is not being well-served by the way some of the state and local governments have chosen to implement—or, more correctly, chosen not to implement—the access provisions of the STAA.

Restrictions on the operation of our STAA vehicles have had a direct impact on the operations of Walgreens. In 1986, Walgreens purchased 66 Medi-Mart stores from the Stop and Shop Food Store chain in Boston, Massachusetts. This acquisition was intended to give Walgreens a much stronger market base in the Eastern corridor between Boston and New York. However, to achieve that competitive advantage, Walgreens first had to solve the problem of supplying the new stores with merchandise from our closest distribution center which had the capacity to serve those stores. That particular distribution center is located in Orlando, Florida—1,300 miles away.

Prior to making the purchase, our Corporate Distribution Department developed cost projections based on operating twin 28 foot x 102 inch trailers between Orlando and New England. Besides the needed extra carrying capacity, we felt that the twin trailers would be easier to operate and, once split, more accessible to the stores located on the congested streets, of Boston and New York. However, we discovered that in order to operate the twins in Connecticut our drivers would first have to be tested, qualified and and licensed by Connecticut. While we were eventually able to qualify several drivers based in Springfield, Massachusetts, the cost to Walgreens has been significant.

First, a considerable amount of increased productivity was lost by not being able to use STAA vehicles because our drivers had to be licensed to operate in Connecticut. Initial delays were experienced in just obtaining the license applications. Next, it took a considerable amount of time to check on the driving records of each of the drivers to ensure that none had a moving violation during the previous three years, as required by Connecticut. Then, after submitting the applications and associated fees, we had to schedule each driver for a so-called road test, which only tested the driver's knowledge of coupling and uncoupling twin trailers and not his driving skill. While we were able to operate twins during this time on the Massachusetts and New York turnpikes, having to avoid Connecticut necessitated having to drive an additional 150 miles per trip. In terms of mileage, time, tolls, fuel and labor expenses, avoidance of Connecticut was extremely costly.

In the meantime, we had sixteen drivers based in Orlando, Florida who also had to be licensed for deliveries into New England. It took over one year to schedule the sixteen drivers for their Connecticut test. Finally, to avoid the significant expense of having to send all sixteen drivers to Connecticut, Walgreens ended up paying the travel expenses for two Connecticut officials who eventually came to Orlando to administer the special test, which took two days to administer. During the one-year period, however, Walgreens had to operate 45 foot x 96 inch semitrailers and forego the efficiencies of using our twin trailers. In terms of carrying capacity for our products, our carrying capacity is increased by roughly sixteen percent using twins instead of a 45-foot trailer. During the one-year period it took Walgreens to license the Orlando drivers, this meant having to operate more than 216,000 additional miles.

Having drivers licensed to operate twins in Connecticut has not put an end to our problems. Currently, we are encountering problems in New Jersey along Route 17. Route 17, which is a four-lane highway, is the only road trucks can use to reach our stores in Northern New Jersey and upstate New York without having to go through Manhattan. Route 17 is also off-limits in some places to STAA vehicles. Although the New Jersey State Police have advised us that we can operate our twins on Route 17, our drivers have been ticketed on several occasions by the Paramus police. As a consequence, we are now instructing our drivers to go through New York City rather than through Northern New Jersey, even though it would be more direct and make more sense in our operation to use Route 17 and avoid New York City.

Last year, we made a considerable effort to reduce the number of deliveries to stores by attempting to consolidate the New England-bound shipments moving from our Orlando distribution center with shipments from a public warehouse in New Haven, Connecticut. The Orlando center is used primarily for shipments of our ev-

eryday products whereas the New Haven warehouse is used for seasonal merchandise. To be the most efficient, the shipments should have been consolidated in New Haven, but could not be since our drivers were not then licensed to operate twins in that State. Therefore, we looked to perform the consolidation at a terminal we had leased in Newburgh, New York, which is about forty miles north of Newark on I-84. Since our stores receive weekly shipments of about 350 cases of our everyday products and 150 cases of seasonal merchandise, consolidation at the Newburgh terminal would have been highly beneficial. However, because the Newburgh terminal is located 2000 feet from I-84 and New York State prohibits access beyond 1500 feet, we were prevented from consolidating the Orlando and New Haven shipments at the Newburgh terminal. Even though Walgreens has since licensed drivers to operate twins in Connecticut the problem has not abated. Because the warehouse in New Haven is located two miles from the Interstate and Connecticut prohibits access beyond a mile, Walgreens is still unable to consolidate the Orlando and New Haven shipments in the New Haven warehouse. Therefore, instead of being able to operate a standardized fleet and consolidate our shipments, Walgreens has been forced to run two separate fleets to service the Orlando and New Haven shipments—one fleet consisting of the more efficient twins to transport the goods from Orlando to New England, and a special fleet of the less-efficient 45 foot trailers for the New Haven shipment. Clearly, this could not possibly be what Congress envisioned when it enacted the STAA.

While it is true that the trucking industry has successfully challenged access restrictions on several occasions, in each case the cost to industry and the public to obtain access has been significant. Legal fees to bring, and to defend against, those cases were high. More important, industry and the public lost the opportunity to gain increased productivity through the use of STAA vehicles during the pendency of those cases. In the end, the unfettered license which some state and local governments feel that they have to deny access has been totally counterproductive to the objectives which Congress sought to confer through the STAA, as amended.

FEDERAL LEADERSHIP IS NEEDED IF REASONABLE ACCESS IS TRULY TO BE OBTAINED

Although the particulars of the restrictions may vary from jurisdiction to jurisdiction, nonetheless there is a common thread to the access restrictions being imposed by state and local governments. Invariably, these de facto denials of access are based not on the presence of facts demonstrating that the operation of STAA vehicles on specific roads leading to terminals or facilities for food, fuel, repairs or rest is inherently unsafe, but rather on that state or local government's perception that the operation of the STAA vehicles may be unsafe. That their actions in denying access will necessitate carriers having to operate additional vehicles to offset the lost capacity of the STAA vehicles, and that having to operate a greater number of trucks has been found to diminish safety, are never considered.

At the same time, NPTA is not suggesting that STAA vehicles can safely be operated on every highway. Clearly, safety does need to be considered. However, if access restrictions are to be imposed it should occur because the facts demonstrate that the restrictions are warranted and not as a result of unsubstantiated perceptions.

The degree to which state and local governments have felt it within their perogative to act without concern for the facts is, perhaps, best demonstrated by the findings of the United District Court in *Consolidated Freightways Corp. of Del.* v. *Larson*, 647 F. Supp. (M.D.PA. 1986). In striking down restrictions being imposed by Pennsylvania, the court in that case stated:

"The manner in which the statutory provisions on access route approval actually operate to deny access to many concededly reasonable routes for long period of times, and sometimes permanently for no reason at all is, however, contrary to federal law. Evidence at trial demonstrates that most access routes applied for are, eventually, approved. [Citation omitted.] In fact, even the Pennsylvania Department of Transportation believes that 102 inch wide vehicles and double trailer vehicles can be operated on most of the highways within the state without substantial safety or operational problems. [Citation omitted.] Nevertheless, statistics show that, on average, it has taken Pennsylvania 257 days to respond to a request for approval of a route. [Citation omitted.]

* * *

"Additionally, local denials of segments of access routes appear to be guided by no articulated standards and often by misguided notions of the safety and operating characteristics of STAA vehicles. . . .

"The evidence in the record shows that municipalities often have no reason at all for denying a particular route. Municipalities have frequently denied routes that local Department of Transportation districts would have approved had the routes been under the department's jurisdiction. [Citations omitted.] Some municipalities have a policy of automatically denying or refusing to respond to all applications for access routes. Most notably among these is the city [sic] of Philadelphia. [Citations omitted.]"—647 F. Supp. at 1491-1492.

Similarly, New York City's proposed restrictions would also have required carriers to obtain permits, and to comply with time-of-day restrictions. In issuing a preliminary injunction against the enforcement of those restrictions, the United States District Court for the Southern District held:

The regulations under consideration suffer from a fatal flaw, they fail to provide the City Commissioner of Transportation with any guidance on what criteria govern the issuance of the contemplated permits.

For example, the "specific access highways" referred to in § 211.4 refers—I presume, but do not decide—to § 210.1(b)'s definition of "access highways." These are "road-ways connected to designated qualifying highways *as approved for use by the Commissioner.*" [Emphasis of the court.] In a similar vein, "terminals" are required to be "qualified and approved by the Commissioner." § 210.19(a).

No procedures for petitioning the Commissioner to approve access roads or terminals is specified. No limit is placed on the Commissioner's discretion in approving or disapproving access roads or terminals. Permits for "single use" are to be issued "for good cause shown" but the regulation contains no indication of what the Commissioner should consider to be "good cause."

It is not possible for this Court to attempt to anticipate the factors the Commissioner might consider in exercising the discretion accorded him under Article 19 and then to test those factors to see if they are based on safety considerations and accord tandem operators their guaranteed reasonable access.—*New York State Motor Truck Assoc.* v. *City of New York,* 654 F. Supp. 1521, 1539 (S.D.N.Y. 1987), *aff'd,* 833 F.2d 430 (2d Cir. 1987).

Clearly, an access problem does indeed exist, and something needs to be done at the federal level if carriers, shippers and the public are at last to obtain the increased productivity that Congress thought it bestowed when it passed the STAA in 1982. S. 1391, a bill introduced by Chairman Exon, is that something. S. 1391 strikes a thoughtful, delicate, balance between the four competing objectives that have given rise to the access problem. First, the desire of industry to become more productive so that our Nation can more effectively compete in world markets. Second, the necessity to ensure that increased productivity is not achieved at the expense of safety. Third, the desire of state and local governments to control their own manifest destinies. Fourth, the need for effective federal leadership and greater, more well-defined direction to the state and local governments as they seek to implement the federal statute.

Mr. Chairman, this concludes my formal comments.

Senator EXON. Mr. Stedman, thank you very much. I have one quick question of you.

I assume that you are here representing only the company that you work for, but my question is, generally speaking, do you feel that your testimony would be typical of those large corporate transportation systems that have large numbers of trucks up and down our highways?

To your knowledge and with your association with the other corporations that fall into your category as far as operating large trucking fleets are concerned, would they generally support the testimony that you have given us here this morning?

Mr. STEDMAN. Yes, it would be. I think we are very typical. I could point out an example.

We are trying to get off an acquisition that we made in the northeast. We purchased 66 drugstores about two years ago. There was some mention about how states are going to be affected by these restrictions. The ideal location, as I mentioned in my testimony here, would probably be in the State of Connecticut to build a distribution center.

Currently, we are hauling these goods up from Orlando. Now, we need another 50 or so stores to support the distribution center I tell you, with the problems we have in Connecticut in qualifying drivers, it does not look too good for Connecticut for a good, viable location for a distribution center.

I think we are very typical with the confusion that we experience, especially over long distance runs.

Senator EXON. I would simply note that you have outlined the difficulties in Connecticut, and if you were listening to the previous letter I read, one of the people who thinks we do nothing right now is the governor of Connecticut. I just happen to feel that those governors so inclined simply do not understand the difficulty that we are having, and they are being misled by this business of states rights.

Mr. STEDMAN. May I add, Senator, in order to get our Orlando drivers qualified in the State of Connecticut, we paid the travel expense for two officials from Connecticut to come down to Orlando to test our drivers. Yes, it was the winter months.

Senator EXON. I missed that, but if it was an inside joke would you please elaborate on that just a little bit?

Mr. STEDMAN. Well, Orlando being a little bit warmer than Connecticut during the wintertime.

Senator EXON. Oh, I see.

Mr. STEDMAN. They found it convenient to come down during the winter months. It took two days to qualify our 16 drivers, which did not involve a road test. It just involved a matter of checking their knowledge of hookup and unhook procedures on twin 20s.

Senator EXON. Mr. Acklie, as I said in my opening statements and in comments that I made earlier, I have known you for a long, long time, and I have always felt that you were one that can take a pro or con attitude on about anything that comes along.

I know enough about your operation to know that safety is a key issue with regard to the operation that you have always run.

Can you elaborate on what your safety experience has been with the use of STAA-approved vehicles versus non-STAA vehicles?

Mr. ACKLIE. Yes, sir, I can. We are one of the carriers that have been approved by the Interstate Commerce Commission as self-insured, and we self-insure.

When we did present that last year to the Interstate Commerce Commission, we had to take our year safety records for a number of years back. Our safety record has continued to improve since we have been operating 48/102s.

Senator EXON. Maybe you do not know the answer to this. Is that generally true in the industry?

Mr. ACKLIE. I do not know, but I see no difference between the 48/102s. If you can operate a bus, you surely can operate a trailer on these roads.

Senator EXON. I will be happy to yield at this time to my colleague from Wisconsin, Senator Kasten.

Senator KASTEN. Mr. Chairman, first of all, I would like to just make a statement. I think what we have heard this morning is compelling testimony for those of us that supported the tax increases in 1982 or were even here—I did not support the tax increases, but I was here at that time.

I think clearly the Congress has got to act, and I would like to join you as a co-sponsor of your legislation. I think that the primary responsibility of this subcommittee should be to move this legislation forward and to enact a new law this year so that we are able to put aside these dislocations that are occurring.

I do not know if it is based on politics or personalities or why one state is doing one thing and another state is doing another, but clearly we have dislocations in our national transportation system that are harmful.

I asked the question of Tom Donohue before if he could quantify this a little bit so that we know in dollars what this is costing.

Don, I do not know what it costs you to come in from the east as opposed from the north, south or the west, but——

Mr. SCHNEIDER. Let us take a typical situation. This paper plant I was talking about in Pennsylvania, we figure that there is an extra 40 miles involved in each one of them, and on a typical trip that might be 400 miles from that destination. You can figure that there is an extra 10 percent on every one of those loads that needs to be moved out of that particular location.

Now, every situation is different, but that is a high cost for the public to pay, and they are paying it. We have to pass it on because ultimately we have to pay our drivers and our fuel and pay our expenses. So it has to be in the freight bills, and ultimately they have to get it from the consumer.

Senator KASTEN. As truckers and, frankly, as Senators, basically what we have here is a situation in which certain things were agreed to in 1982 and have not been lived up to. We have to feel deceived. Certainly you have to feel deceived and then taken advantage of.

Now, what is the reason? What is the umbrella under which these different states are working the law? Are they saying it is for safety reasons? Are they looking for revenue? Is it just helpful to stand outside of your truck stop? It might be easier to pick up revenue that way than doing it some other kind of a way.

What is the agenda? What is going on here, and why is it that we are seeing these wide discrepancies, Mr. Acklie?

Mr. ACKLIE. Senator, I think in some cases it is revenue. I think in other cases it is an attempt to bend over backwards to make sure that everything is safe.

Senator KASTEN. You know, Senator Exon is for safety; I am for safety. If you are not safe, you are going to go out of business, so you have to be for safety. We are all for safety.

The question is are we using safety as an excuse, or, in fact, are there certain roads that you would like to travel on that the state says you should not travel on because it is not safe to travel on? I do not know the answer.

Mr. ACKLIE. We do not want to travel on unsafe roads, sir.

In addition to that, when you require our trucks to travel 10 percent farther, you have a greater chance of accidents. The more miles you travel, the more chance you have of accidents.

If you would look at the rules that require us to get designated to the State of New York, a route, the rules say, first of all, you are going to make an investment if you are going to attempt to get one of their roads qualified. They go on to say to you that it would

probably take four months, and then they list about 25 or 35 people that you probably could or should see and say if you do not see them you are probably not going to get it qualified.

In a lot of cases we will pick up for a small manufacturer in the midwest a load in New York on a one-time basis. We simply do not have the opportunity. I am saying to you that I believe in some cases we are almost building a bureaucracy in states in doing it. I think that is one of the things we are looking at.

I think the other thing is revenue. In California and Massachusetts, it is strictly a tollgate.

Senator KASTEN. Don.

Mr. SCHNEIDER. I think Senator Exon raised a valid point when he said what is the difference between a road in one of the states that has no restrictions and some of the states that have very restricted highways? It is strictly some state official's interpretation.

We obviously also are very concerned about a good safety record because it is our cost of operations, and we would not be sending trucks on roads that we would continually be having accident problems with.

Our evidence on all the vehicles we operate, both the 45/96s and the 48/102s, is that we cannot discern a difference in the accident rate. Then when I talked to the drivers and I included their statements, their written testimony, in my statement, they indicated the same thing. They said all they do for a six-inch wider vehicle is just adjust the mirrors a little bit, but there is not a safety problem.

To a man, they indicated it is really distracting to have to continually try to keep track of whether they can turn on this particular road or not, and you can imagine a driver coming up to a crossroad and saying I do not know, is it legal for me to go on this road or not, I had better stop, and just about that time with his mind off the road and off what he is doing, getting into an accident.

So I say that what is happening right now is more of a safety problem than if we opened up these roads and let people move freely and let them concentrate on operating the vehicles safely.

Mr. STEDMAN. I feel that most of the states probably took the approach of a time and effort situation, whereas it would be easier to restrict most of the roads and let the trucking industry come back and solicit the help from the states to operate on those roads that they want to operate on.

It could be for safety concerns or for revenue concerns, but I just believe they just took the easy approach right now: restrict the majority of the roads, just the opposite of this bill. It puts the burden of proof on the trucking industry, and with this bill I believe it would put the burden on the states now to open up the access and then prove otherwise. That is what we are looking for.

Senator KASTEN. Mr. Chairman, let me just repeat what I said earlier. I think that this legislation ought to be the top priority of our subcommittee. I think that we can move this legislation forward by working together. This is not a partisan issue, as you have gone out of your way to point out. We have Republicans and Democrats alike working.

But basically we are talking about jobs, and we are talking about growth, and we are talking about profits, and we are talking about a country that will become more competitive.

The dislocations that have been put into this system for whatever reasons, and maybe it is revenue in certain cases, are wrong. We ought to work together in an aggressive, nonpartisan way to enact this legislation and to eliminate the dislocations that are now occurring in our national transportation system.

Senator EXON. Thank you, Senator Kasten. I would add one other item to the items you have cited, and that is freedom of movement in interstate commerce, which covers a whole field. We have extensive laws and court decisions on the matter of interstate commerce, and that is really what this is all about. I think it is most unfortunate that we run into this problem.

Thank you for suggesting you should move this legislation along, and I am beginning to think that that was the thing to do. I would freely admit at this time that I think, as most people know and understand, this legislation was introduced originally merely to try to prod the regulators into getting something done on the rulemaking procedures so that the trucking industry could know where they are and where they are going. It has not been moving at the rate that was intended.

I think probably even with the crowded schedule that we have, Senator Kasten, that we might be able to move this on through and have it put into effect and law. I fear to say the original intention was not to move it speedily, but things have not been moving speedily in this area, and that is why we had this hearing.

We appreciate your help and that of the witnesses.

I have no further questions of this panel. I just want to thank each and every one of you for your very fine testimony and for taking the time to come here to help us build a record of getting something done in this very difficult area.

Thank you very much, gentlemen. You are excused.

I think we will stand in recess for a few moments before panel two comes up so that we can go to the floor and vote.

So we are in recess for seven minutes.

[Brief recess.]

Senator EXON. The subcommittee will please come to order.

I would like to call panel two at this time, Ms. Hazel Frank Gluck, the Transportation Commissioner for the State of New Jersey, Mr. Donald R. Lucas, Administrative Engineer for the State of Alabama, and Mr. George Herndon, Policy Analyst for the Florida Department of Transportation.

Thank you very much. I apologize folks for the delay. We had one of those nonsensical votes on the floor of the United States Senate that we have to go over and vote for, where a Senator made an amendment and then offered to table his own amendment, and it was a unanimous vote to do so, and I apologize that we have to delay these important hearings on this.

Thank you for coming. We want to hear all sides of this matter that we are discussing this morning. So, Ms. Gluck, if you would please proceed at this time, we are very delighted to have you here.

New Jersey is certainly one of the major states in the union as far as transportation is concerned. An awful lot of material flows

through your state, and we are very much interested in your views on the matter at hand.

STATEMENT OF HAZEL FRANK GLUCK, COMMISSIONER, NEW JERSEY DEPARTMENT OF TRANSPORTATION

Ms. GLUCK. Thank you very much, Mr. Chairman. My name is Hazel Gluck, and I am the Commissioner of the Department of Transportation in New Jersey. I would like to just take a moment to acknowledge Senator Lautenberg's assistance to us on this issue of access.

The motor carrier industry in New Jersey is an integral element in the economic health of the state. We understand that. In New Jersey, 80 percent of the freight activity is by truck.

As such, motor carrier productivity is directly related to the economic productivity of the state. Governor Keane understands that. He also supports the NGA letter that you read into the record this morning.

We also know that our access regulations have not affected jobs in our state or the growth in the State of New Jersey.

New Jersey has a well-conceived carrier access system. It allows 102-inch wide trucks and twin trailer combinations, allows for them in two ways.

First, we have designated an extensive system of Federal, state, and county roadways for use by 102-inch wide equipment. This is greater than 15 percent of the state's primary road network as required in the Surface Transportation Assistance Act of 1982. This equipment is then allowed to access to facilities within two miles of that designated system.

When the attendant two mile access allowance is taken into account in a small densely-populated state such as ours, 102-inch wide trucks are allowed wide access within New Jersey's borders.

We are 147 miles long and 55 miles wide. That, all of those regulations, sir, are written up on four pages and one map. Motor carriers wishing to operate twin trailers in New Jersey may do so on a designated system of interstate and state highways.

If they wish to access terminals off the system, they must apply in writing for a permit which will designate a specific route for this use. We have approved over 200 different requests for permits. We have denied two.

One was for 37 miles off the system and considered too far, and the second one was because the facility was not a terminal. There is an appeal procedure that we have in place. Only one appeal has been filed, and the Department has been working with the motor carriers to establish hours of operation to accommodate their needs and still protect the public safety.

The procedure to obtain a permit in New Jersey is quite simple. The company sends a letter to the New Jersey Department of Transportation requesting access to a specific terminal, and indicating the desired route of travel. There is no fee.

The permit is issued to the terminal managers so that any trucking company that uses the terminal can utilize the permit. Permits are issued for an indefinite length of time.

New Jersey defines a terminal as a facility of which 80 percent of the building area is used for loading, unloading, and the breaking down or the storing of goods which can be used in combination with manufacturing facilities on the same site.

This facility shall consist of a minimum dock area to provide the capability of loading and offloading of five trailers simultaneously. A distribution center, or rail, waterborne, or air terminal shall be considered the same as a terminal. This definition was formulated with the input and expertise of the motor carrier industry in New Jersey.

In our opinion, every request must be reviewed on a case by case basis. Consideration must be given to geographical variations, traffic congestion, and population densities in the state.

New Jersey is the most densely populated state in the Nation. It is a mature state with an infrastructure which is comprised of some of the oldest and the newest roads and bridges in the country. Major roadways and residential neighborhoods are crowded side by side. These factors should be considered in selecting safe routes of travel in the Garden State.

But the individual states, based on the unique circumstances, in my opinion can best decide where these vehicles can operate safely. And Federal preemption should be reserved for those areas where access is being denied unfairly.

Senator, in summary, we feel that New Jersey has a liberal motor carrier access policy, and therefore there is no need for additional Federal preemption. The New Jersey motor carrier access permit process works.

We do not have any complaints from the trucking industry, and this process takes into consideration safety, maintenance problems, and further traffic congestion. And we thank you very much for the opportunity to address you.

Senator EXON. Thank you, Ms. Gluck. Mr. Lucas.

STATEMENT OF DONALD R. LUCAS, ADMINISTRATIVE ENGINEER, ALABAMA STATE HIGHWAY DEPARTMENT, ACCOMPANIED BY PAUL BOWLIN, MAINTENANCE ENGINEER

Mr. LUCAS. Mr. Chairman, my name is Donald R. Lucas. I am Administrative Engineer of the State of Alabama Highway Department. I am accompanied by a member of our staff, Mr. Paul Bowlin.

Mr. Chairman, I express our appreciation for the opportunity to register our comments with the Committee. I trust that our comments will be useful to the Committee in its deliberations. I have with me the full testimony of which you have a copy of and request that it be made a part of the record, and I will summarize.

Senator EXON. Without objection, it is so ordered. And I would just clarify for the record at this time that the Chairman has indicated previously that any and all statements for the record will be

accepted without objection. But I appreciate your bringing it up, Mr. Lucas, so we can clarify.

Mr. LUCAS. With passage of the Surface Transportation Assistance Act of 1982, Congress mandated certain nationwide truck uniformity.

Although we were concerned with some of the provisions of the legislation, we in Alabama understood and accepted the premise that unreasonable barriers to interstate transportation and commerce needed to be eliminated.

We have, however, on several occasions resisted the attempts of some to use rulemaking pursuant to the 1982 Act to rewrite the law into a much more liberal form than passed by Congress.

The Secretary of Transportation designated a twin trailer system following passage of the 1982 Act. We in Alabama filed a lawsuit to set aside that designated system, because of the safety concerns of many of the routes included in the system.

The State of Alabama later dropped the lawsuit when the U.S. Department of Transportation withdrew the original designated system in Alabama, and replaced it with a designated system we felt could safely accommodate twin trailers.

We in Alabama felt the designated system in our state would provide the intent of Congress and remove the barriers to interstate commerce for the movement of twin trailer combinations.

We find after six years certain interests are continuing in their attempts to open practically all highways to twin trailer combinations. Since they failed in obtaining this approval through the system designation, it appears to us they have turned to the reasonable access provisions of the Act.

It appears to us that some of these various interest groups desire an access rule so liberal as to open all public highways to twin trailers. We in Alabama disagree with that philosophy.

Congress recognized in the original legislation that not all highways are capable of safely accommodating twin trailers. Congress used such terms as "highways as designated," "the Secretary shall designate," and "reasonable access."

We are of the opinion that access proponents are attempting to extend provision to Federal law aimed at interstate commerce into areas with local impact only.

The State of Alabama passed necessary state law to bring Alabama into compliance with the 1982 Act. Under provisions of state law, we have added an additional 325 miles to the designated twin trailer system.

A committee was formed with representatives from the State Highway Department, the Department of Public Safety, and the Alabama Trucking Association to review industry requests for additional routes.

Items are reviewed such as minimum roadway width, minimum shoulder width, minimum bridge width, horizontal and vertical alignment, passing sight distance, and truck accident rates. We feel

these are safety considerations that cannot be mandated by law, nor by some rulemaking process, and therefore authority to make these decisions needs to remain with the states.

We feel the 1982 Act has been re-examined and re-ruled upon continuously for six years, and time has come when the states can rest in the knowledge that a final rulemaking has been made.

Certainly we feel that no further action seems appropriate until such time as the Congressionally-mandated study being conducted by the Transportation Research Board of the National Academy of Sciences has been completed.

Mr. Chairman, this concludes my summary remarks.

[The statement and letter follows:]

STATEMENT OF DONALD R. LUCAS, ADMINISTRATIVE ENGINEER, ALABAMA STATE HIGHWAY DEPT.

Mr. Chairman, my name is Donald R. Lucas and I am Administrative Engineer of the State of Alabama Highway Department. I am accompanied by a member of our staff, Mr. Paul Bowlin, our Assistant Maintenance Engineer, who will assist me in responding to questions from the sub-committee following our oral presentation.

Mr. Chairman, on behalf of the State of Alabama Highway Department, I express our appreciation for this opportunity to register with your sub-committee our comments concerning the access of twin trailers. I trust our comments will be useful to the sub-committee in its deliberations.

With passage of the Surface Transportation Assistance Act of 1982, Congress, for the first time, mandated certain nationwide uniformity in truck size and weight. While this particular legislation in itself, was somewhat disturbing, we understood and accepted the premise that unreasonable barriers to Interstate Transportation and Commerce needed to be eliminated. We, in the Alabama Highway Department, possibly contrary to the beliefs of some, have never taken issue with the uniformity provisions in truck size and weight of the 1982 Act.

We have, however, on several occasions resisted the attempts of some to use rulemaking pursuant to the 1982 Act to rewrite the law into a much more liberal form than was passed by Congress. The Secretary of Transportation designated a twin trailer system in the immediate aftermath of passage of the 1982 Act. As a result of that designated system, Alabama and some other states found themselves in the unfamiliar and uncomfortable position of defending themselves against action by a federal agency that we normally work very closely with on issues that effect and impact highway safety. The State of Alabama filed a lawsuit to set aside the system designated by the Secretary of Transportation. The State of Alabama later dropped its lawsuit when the U.S. Department of Transportation withdrew the original designated system in Alabama and replaced it with a designated system that much more nearly conformed with the language of the 1982 Act with regard to the system being able to safely accommodate twin trailers.

We in Alabama felt the designated system in our state would provide the intent of Congress and remove the barriers to Interstate Commerce for the movement of twin trailer combinations.

However, it appears we were naive to believe that a final rulemaking had been made regarding the twin trailer provisions of the 1982 Act. We, in fact, find that after six years certain interest are continuing in their attempts to open practically all highways to twin trailer combinations. Since these interests failed in obtaining this approval through the system designation, they appear to have turned to the reasonable access provisions of the the 1982 Act in their quest.

It appears to us that these various interest groups desire an access rule so liberal as to open up all public highways to twin trailers. We in Alabama disagree with this philosophy and we further feel it was not the intent of Congress to open all public highways to twin trailers. Congress was very careful in the wordage of the 1982 Act by using such terms in the Act as "highways as designated", "the Secretary shall designate" and "reasonable access". We in Alabama feel such phrases certainly indicate that Congress recognized in the original legislation that not all highways are capable of safely accommodating twin trailers.

We are of the opinion that access proponents are attempting to extend provisions of federal law aimed at Interstate Commerce into areas with local impact only. We are opposed to any movement to mandate unlimited access as we feel would result from several proposals that have been brought foward in the years since passage of the 1982 Act. We further feel that the Department of Transportation understood the safety concerns of those states who filed lawsuits in the aftermath of their rulemaking following enactment of the 1982 Act.

The State of Alabama passed necessary state law to bring Alabama into compliance with the 1982 Act. Our state highway system consist of 11,000 miles. There are 1,819 miles on the federally designated system. The state under provisions of state law added an additional 325 miles to the twin trailer system. We went further by establishing a system whereby trucking interest can request additions to the designated system. A committee was formed with representatives from the State Highway Department, the Department of Public Safety and the Alabama Trucking Association to review industry request and make a determination based upon the relevant characteristics of the requested route. Items are reviewed such as minimum roadway width, minimum shoulder width, minimum bridge width, horizontal and vertical alignment, passing sight distance and truck accident rates. We feel these are safety considerations that are important and must be addressed for each individual route requested. We feel these are safety considerations that cannot be mandated by law nor by some rulemaking process and therefore it is necessary for the states to individually retain the authority to make these decisions. As a result of establishing a system for trucking interest to request new routes, our committee has recently recommended and approval has been given for an additional 182 miles.

We in Alabama feel our provisions for a one mile access from the designated system and our provisions to request consideration of additional mileage to the designated system are adequate to address the concerns of the trucking interest. We also feel this provides the state with the authority and discretion to make those determinations within the best interest of the safety of our traveling public. Our state law provides for our cities and counties to have authority and discretion to adopt more liberal access provisions within their respective areas of jurisdiction.

We further feel the 1982 Act has been re-examined and re-ruled upon continuously for six years and time has come when the states can rest in the knowledge that a final rulemaking has been made. Certainly, no further action seems appropriate until such time as the Congressionally mandated study being conducted by the Transportation Research Board of the National Academy of Sciences has been completed.

Thank you for this opportunity to present the views and comments of the State of Alabama Highway Department on this most important subject.

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STATE OF ALABAMA
HIGHWAY DEPARTMENT
MONTGOMERY, ALABAMA 36130

GUY HUNT
GOVERNOR

ROYCE G. KING
HIGHWAY DIRECTOR

April 22, 1988

Honorable James Exon
Chairman
Surface Transportation Sub-Committee
United States Senate
Washington, D.C. 20510-6125

Dear Senator Exon:

I appreciate the opportunity afforded to me yesterday in speaking before your sub-committee on behalf of the Alabama Highway Department concerning the truck access issue as it relates to the Surface Transportation Assistance Act of 1982. Copies of my full testimony were made a part of the record of your hearing.

During the hearing, there were several witnesses as well as members of the committee who discussed provisions of your Senate Bill 1391 with ammendments to the Surface Transportation Assistance Act of 1982 regarding reasonable access. Our written testimony was around the general topic of truck access and was not written in direct response to your legislation. However, since that particular legislation became a major point of discussion by members of the sub-committee and various trucking interests, I would like to have the following comments made part of the record of your hearing.

In your proposed legislation, it appears you are defining reasonable access as any route with traffic lanes with a width of 10 ft. or more unless a state or local government demonstrates, based upon clear and convincing evidence, that a particular route requires vehicle restrictions due to safety considerations. We do have concern about a 10 ft. lane width but this is only one of a number of highway characteristics that affect safety. Factors such as horizontal and vertical alignment which affect passing sight distance on two lane routes, bridge widths, and accident rates are of equal importance. Once a lane width, whether 10, 11 or 12 ft. is written into law, we believe it will become the single controlling factor. We believe this will be true regardless of other wordage that might give the state or local government the opportunity to restrict certain routes based upon safety considerations. Debate would ensue as to what constitutes clear and convincing evidence regarding safety considerations.

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In regard to the wordage concerning terminal in your proposed legislation, we are concerned this will eventually be interpreted to include the door of every business and residence in the United States of America. We, therefore, would be opposed to the legislation because we feel it will be either immediately or within a short period of time interpreted to include practically all public roads in the United States of America.

Our testimony at the hearing, along with that of our counterparts from Florida and New Jersey, seemed to be characterized as hearing from the other side. Although we do have differing views on some issues with the trucking industry, we do not believe that to be a fair characterization. We, in Alabama, feel we have worked very closely with our business and trucking industry while at the same time giving consideration to the other traveling public who also are paying an increased gasoline and motor fuel tax as a result of the Surface Transportation Assistance Act of 1982. We allow 102 inch wide vehicles to operate on all pavements 24 ft. or wider. We have opened all routes in the state to trailers up to and including 50 ft. in length. We allow twin trailer combinations to operate on 1,819 miles of the federally designated system and have on the state's own initiative added an additional 507 miles to the twin trailer system. We provide a one mile access from the designated system and have provisions to allow trucking interests to request additional routes and additional access.

We, in the Alabama Highway Department, feel it is imperative that the states retain the right to make these decisions in the best interest of the traveling public of their state. We feel our current designated system and our access provisions in Alabama meet the intent of Congress as was envisioned in the original legislation to remove the barriers to interstate commerce and transportation.

Thank you for this opportunity to add these additional thoughts to the record of your hearing.

Yours very truly,

Donald R. Lucas

Donald R. Lucas
Administrative Engineer

Senator EXON. Mr. Lucas, thank you very much. Mr. Herndon.

STATEMENT OF GEORGE W. HERNDON, TRANSPORTATION POLICY ANALYST, FLORIDA STATE DEPARTMENT OF TRANSPORTATION

Mr. HERNDON. Thank you, sir. I am George Herndon. I am, as you noted before, a transportation policy analyst with the Florida Department of Transportation.

I have been involved in trucking issues for approximately 10 years in a very heavy manner. Incidentally, I am also a member of the TRB Study Committee on Truck Access.

The Surface Transportation Assistance Act of 1982 has had a substantial impact on the State of Florida. For example, we now allow 102-inch wide trucks full travel statewide, subject only to potential safety restrictions. There are now none in place, nor have there been. These same comments apply equally to trucks using the 48-foot long semitrailer.

Tandem trucks, also known as twin trailers, et cetera, use all of our interstates, and an additional 724 miles of Federal aid and other non-interstate routes.

Additionally, our department administers a state program for providing access to qualified terminal facilities. The definition of this terminal or these facilities is included in my written statement.

The Florida legislature determined that, based on the provisions of the Surface Transportation Assistance Act of 1982, reasonable access off the national network would be accomplished in the following manner.

First, free access for tandem trailer trucks would be provided in intersections along the national network based on the following.

In rural areas, access to specific activities within one mile along two lane roads and within three miles along four lane roads. And in urban areas, access to specified activities within one mile of an interchange along highways having widths of 12 feet or more.

Second, there would be established a process tc allow for terminal operators to petition the Department of Transportation for additional access to qualified facilities.

We have a rule that we have put in place on this. Additionally, we have an administrative procedure that has been refined as time goes along.

Although the industry can and has filed objections to some of our specific route decisions, there have been no actions of that nature filed against either the basic state law, its implementing rule, or our administrative procedures.

One challenge that has been to a specific route decision has been completed through the judicial process, and on the 3rd of March Florida's First District Court of Appeals held for the Department. There have been no further appeals in that action.

Recently, we in the state have started to review our governing rules and its accompanying procedures. Our particular objective is to make the petition process less cumbersome to the trucking industry.

For example, we are considering adopting a signing requirement as is done in some other states, and as has been mentioned here this morning.

Our efforts in this matter have two major objectives. First, the preservation and improvement of highway safety, operating conditions, and public convenience. And second, providing reasonable assistance to the trucking industry in the fulfillment of its vital functions.

The basic impact of the procedures that we now have in place in Florida tend to limit tandem trailer trucks to multi-lane facilities close to the interstate, close to the national network.

Our criteria is heavily weighed against the operation of these vehicles on two-lane roads, or highways with lane widths less than 12 feet.

Considering the fact that Federal law clearly holds the states responsible for finding a route "safe" before tandem trailer trucks can be allowed on that route, we believe that we cannot give a "safe finding" on routes that do not meet that criteria.

We believe our approach is consistent with good public policy, as supported by experiences and those of other states.

We would strongly endorse any Congressional action that would strengthen the state authority over matters relating to truck safety for these larger vehicles. We also support such actions that would avoid mandating more widespread operation of tandem trailer trucks.

The State of Florida is satisfied with the current status of the existing relationship between the Federal government and the state on this. Thank you, sir.

[The statement and letter follow:]

STATEMENT OF GEORGE W. HERNDON

Good morning. I am George W. Herndon; I am employed by and represent the Florida Department of Transportation in Tallahassee, Florida.

Thank you for the opportunity to participate in this hearing and to prsent a summary of Florida's experiences with large truck access. Throughout this presentation, please keep in mind that the objectives of the Florida Department of Transportatioin have been, and continue to be, the preservation and improvement of the safety, operating conditions, and public convenience of the public highways and streets in our State. This includes providing reasonable support to the vital functions provided by the trucking industry, consistent with the mandates of the laws of Congress and the State of Florida and with the applicable rulings of the various Courts.

The Surface Transportation Assistance Act of 1982 has substantially altered the face of trucking in Florida. For example, we now allow 102" wide vehicles to travel statewide without restriction, subject only to potential restrictions based on safety considerations. At the present time, there are no such restrictions in place. These same comments apply equally to combination trucks using 48' long semitrailers.

Tandem trailer trucks (also known as twin trailers, double bottoms, etc.) freely travel all our Interstate highways (approximately 1,347 miles) and approximately 724 additional miles on our Federal-aid Primary and other non-Interstate routes. Additionally, the Florida Department of Transportation administers the State's program for providing access to qualifying terminal facilities. As stated in the Florida Statutes, we define such facilities as:

"Those structures and their associated yards, parking areas, roadways, and installed equipment that, by design or usage, are devoted exclusively to wholesale commercial transportation activities, including the reception, retention, transfer, and forwarding of cargo or freight." (s. 316.003(73), F.S.)

Our primary concern in arriving at this definition was to help avoid commingling routine, retail traffic with heavier, longer combination truck traffic within the retail environment.

Florida law also recognizes the Congressional mandate that all so-called 1982 STAA vehicles be provided reasonable access to specified facilities and activities. In particular, our Legislature determined that statutory provisions to accomplish this mandate would be accomplished as follows:

1. Free access for tandem trailer trucks would be provided at intersections along the Federally-designated National Network (unless the specific intersection was found by inspection to be unsafe) based on the following criteria:

a. In rural areas: Access to specified activities within one mile along 2-lane roads and within 3 miles along 4-lane highways, and

b. In urban areas: Access to specified activities within 1 mile of an interchange along highways having lane widths of 12 feet or more.

2. Additionally, the Florida Legislature established a process that allows for terminal operators to petition the Florida Department of Transportation for additional access from the Network to specified terminal facilities. This statutorily-prescribed procedure was then converted into a formal Rule under the State's process of public hearings. Subsequently, in administrative procedure was developed and then refined to standardize and coordinate the processing of petitions received by the Department.

Incidentally, it should be noted that trucking industry representatives were actively involved in the development of these laws and rules. It is also important to know that, consistent with the apparent intent of the Congress as provided in the STAA of 1982, the mandated processes were developed expeditiously. The relevant Florida law and its implementing rule were adopted and in place by mid-December, 1983. In retrospect, it turned out that these functions were accomplished well before the Federal Highway Administration reached its conclusions as to how they planned to handle this complex issue.

Although the industry can and has filed objections to specific access route actions of the Department, no such actions have yet been filed against the basic State law, its implementing rule, or our international administrative procedures.

One legal challenge to a specific access route decisions has been completed in the judicial review process. I will briefly describe that case and its outcome.

During early 1985, Alterman Transport Lines, Inc., filed a petition with the Department requesting authorization for a tadem trailer truck access route from its Opa Locka (Miami), Florida, terminal to a terminal located at Rockland Key, just north of Key West, over 123 miles of highway not included in the National Network. (This route had originally been proposed by the Federal Highway Administration for inclusion in the National Network but, following objections by the Florida Department of Transportation, had been deleted from that listing.)

The Alterman petition was denied by the Department for a number of reasons, primarily relating to safety.

Alterman asked for and received a public hearing on the issue; the case was heard in October, 1985.

The hearing officer held for Alterman in that he considered the road to be safe for tandem trailer trucks; he also felt that arrangements could be made to have only Alterman use the route and then only at cetrain low traffic hours. However, the then-Secretary of the Florida Department of Transportation denied the petition (May 21, 1986) because he, as Secretary, determined that the road was not safe for tandem trailer trucks. Additionally, it would have been impossible for the Department to grant an exclusive use route to Alterman because of the State's decision to eliminate economic regulation over the motor carrier industry.

Subsequently, Alterman filed an appeal in the State's First District Court of Appeals. In an opinion filed November 10, 1987, the Court held for the Department.

On March 3, 1988, the Court affirmed its original opinion which held for the Department; no further appeal has been taken.

The primary argument of Alterman centered around their position that the Department had not acted promptly in its original denial as required under the State's law governing granting of licenses, and that the petitioner process used by the Department should be equated to a licensing process. The Court held that he Department's granting of a tandem trailer truck access route was not a license but rather it was an exercise of the Department's traffic regulation authority and therefore not subject to the restrictions of the licensing process.

As a result of the Alterman case, we are now in the process of reviewing our governing Rule and its accompanying administrative procedures. In particular, we are seeking to convert our processes to more closely follow the traffic regulation process

of the Department and to make the petition process less cumbersome to the trucking industry. For example, as of this date we plan to seek the adoption of a requirement for signing of these routes, as has been done in some states, to help both the trucking industry and those law enforcement agencies charged with helping to enforce these laws.

As I have indicated, our objectives in this matter have two major components; First, the preservation and improvement of highway safety, operating conditions, and public convenience, and second, to provide reasonable assistance to the trucking industry in the fulfillment of its vital functions.

The basic impact of procedures now in place in Florida tend to limit tandem trailer trucks to multi-laned facilities in the vicinity of the National Network. Our criteria is heavily weighed against operation of these vehicles on 2-lane highways or highways with land widths less than 12 feet. Problems associated with passing, stopping, and off-tracking make these vehicles unsuitable on facilities not meeting this criteria. Considering the fact that Federal law clearly holds the states responsible for finding a route "safe" for allowing tandem trailer truck operations, we concluded that such a "safe finding" is not possible on routes not meeting our criteria. Consequently, we restrict tandem trailer truck operations. We believe this approach to be consistent with good public policy, supported by our experience and those of other States. We would strongly endorse any Congressional action which would strengthen State authority over matters of truck safety as relates to these vehicles and especially any such actions which would avoid mandating more widespread operations of tandem trailer trucks.

The State of Florida is satisfied with the current status of the existing Federal/State relationship in the area of large truck access. In particular, we urge the Committee to defer pursuing any further preemption of State authority pending the outcome of the Transportation Research Board on-going study of Truck Access.

In summary, we in the Florida Department of Transportation feel that the individual states are in the best position to properly assess their highways to determine which routes are safe for the operation of large trucks.

Thank you.

Florida Department of Transportation

BOB MARTINEZ
GOVERNOR

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KAYE N. HENDERSON
SECRETARY

April 25, 1988

Senator J. James Exon, Chairman
Subcommittee on Surface Transportation
Senate Committee on Commerce, Science, and Transportation
SD-508
U. S. Senate
Washington, D.C. 20510-6125

Re: Supplemental Testimony on Truck Access

Dear Chairman Exon:

At the hearing held by your Subcommittee on April 21, 1988, concerning truck access, I provided testimony as to Florida's experiences in this area. However, being unaware that S. 1391 would be addressed, I was not prepared to provide adequate responses to your questions relating to provisions contained in S. 1391.

This supplemental testimony is therefore submitted to complete the record as pertains to matters associated with S. 1391.

My comments on S. 1391 fall into three major categories:

First, the provisions of S. 1391 that would define "reasonable access" for STAA vehicles as being "routes with traffic lanes designed to be a width of ten feet or more" totally ignores the mathematics of computations made on such a width. For example, a 102" wide vehicle would use all of a 10' lane except for 18". That leaves only 9" on either side of such a vehicle assuming it stays in the center of its lane.

Such a tight fit might not present a particular hazard in a low-speed urban area. However, at 55 MPH (or above) wheel alignment, wind induced oscillations, off-tracking, and rear end movement amplification, especially with tandem trailer trucks, suggests we should expect substantial increases in truck-related highway accidents should the 10' lane width be retained

Another view to consider before adopting the 10' lane standard must be the increased accident potential of two STAA vehicles traveling in opposite directions on a two lane road.

The 10' lane provision would be, at the very least, unsafe and should be deleted. As I noted in my prepared testimony, the basic thrust of Florida is to limit tandem trailer trucks to multi-laned routes. Our criteria is heavily weighed against operation of tandem trailer trucks on 2-lane highways or highways with lane widths less than 12 feet. We are especially concerned over route selection because of the points outlined above. Consequently, we restrict tandem trailer truck operations and firmly believe that this approach is consistent with good public policy.

The second major issue relates to the requirement that such routes with 10' lanes will be available to STAA vehicles "unless a State or local government demonstrates, based on clear and convincing evidence for that particular route, that safety considerations require vehicle restrictions." This requirement places the burden of proof on the states to prove a route is unsafe but leaves it up to the courts to decide just what constitutes such proof. The requirement goes directly against the concept expressed in my written testimony, that Federal law presently requires a State to find a route "safe" before allowing its use by any specific vehicle.

Adoption of the proposed concept would set the intolerable precedent of opening highway safety standards to second-guessing by self-appointed experts. In effect, the provision would open all public roads to all types of traffic regardless of existing traffic regulations.

More important, it would ultimately result in sustainable traffic regulations being adopted only after a sufficient number of traffic accidents had occurred. No longer could traffic regulations be imposed prospectively; rather, such regulations would only be imposed retrospectively. The public cost in traffic related deaths, injuries, and property damages would be staggering.

This provision should be deleted; in its place, one might more appropriately consider requiring that a State or local government desiring to exercise control over routes for STAA vehicles would be required to first adopt an objective evaluation process to establish that a requested route could or could not accommodate the type vehicle proposed for use over that route.

Lastly, we are concerned over the bill's proposed definition of "terminal"; as indicated during the hearing, perhaps you also share a degree of concern over these same issues.

Essentially, the definition provided in S. 1391 would allow any driver to take his STAA vehicle wherever he chose to drive. This would be tantamount to opening all public roads to STAA vehicles, regardless of whether or not the selected route could safely handle that traffic.

The terminal definition should be revised to accommodate the true functions of STAA vehicles, based on the definitive characteristics of the type vehicle being addressed. For example, it would appear to be appropriate that Florida's current definition of terminal facilities could be expanded to include manufacturing facilities without doing great harm to the basic concepts being followed by this State. (Note: I am attaching a copy of my previously submitted written testimony which defines "terminal facilities" as presently reflected in the Florida Statutes.)

However, the provision in the terminal definition to allow STAA vehicles to travel wherever such vehicles are "regularly maintained or stored" would be especially harmful to the general public. Consider please that some such vehicles will probably end up being parked overnight (or longer) on residential streets. They could also be found at local automotive shops. Although these comments would not apply to the large majority of STAA vehicles, the trouble caused by the above practices would certainly outweigh any benefits to the general public that might otherwise accrue under the proposed provisions.

The definition of "terminal" as proposed in S. 1391 should be substantially revised to make it compatible with the demonstrated needs of STAA vehicles; one which would truly be in the best interests of the general public.

Again, thank you for the opportunity to participate in your hearing process on this vital subject. I hope that my comments will be of some assistance to you and other members of the Subcommittee in helping chart the nation's future course in this very difficult arena.

Should there be points raised in this testimony on which you might desire further clarification or if there are other questions which you might want to pose on these matters, please contact me at (904) 488-8006.

Very truly yours,

George W. Herndon

George W. Herndon
Transportation Policy
Analyst

Senator EXON. Thank you, Mr. Herndon. Let me ask you a question or two just to try to explore the subject a little bit further.

Ms. Gluck, I took it from your remarks that, since you have not had any particular problems in New Jersey, you therefore do not believe that S. 1391 is necessary. Is that correct?

Ms. GLUCK. I cannot judge whether it is necessary as far as other states are concerned.

I think that if the industry is being treated unfairly, that that perhaps may be an area where Federal legislation might be necessary. But each state is different, and I do not know that you can mandate a national standard.

In your state, sir, you would not have the kind of driveways that we would have on a state road in New Jersey, and you would not have residential neighborhoods smack up against a main highway as we do in New Jersey.

Two miles off your system or five miles off your system is very different than it is in ours. And therefore, the concern was, and the point was, that we really do not think you can treat everybody the same way by a single standard, that it has to be reasonable. And reasonable means different things in different states.

Senator EXON. Well, I could not agree with you more. And that is the dilemma that we face.

I have driven in New Jersey and I think I have some understanding, and I would generally agree with you that the problem is significantly different in New Jersey than it would be in Nebraska. And you could name a lot of other states that would fall into that category.

Ms. GLUCK. Yes.

Senator EXON. That is why this Chairman did not jump in as early as I probably should have with regard to setting up additional Federal standards, because I knew we would run right smack into the matter that you properly bring up in this area.

But as you carefully pointed out in response to my questions, just because we do not have difficulties in New Jersey does not mean that we do not have difficulties elsewhere. And the question is, how do we solve that without Federal legislation?

It was my hope that Federal legislation would not be necessary. And as I said at the conclusion of the last panel, when I introduced S. 1391, it was to try and force some action on this matter and have it resolved between the individual states and the regulators, because I do not like to pass any more laws up here than we need to.

Generally speaking, though, I would like to ask members of this panel, generally speaking, do you quarrel with the reasonable access definitions that we wrote into S. 1391, which set that on routes of 10 feet or more? I would like to have you respond to that.

I certainly listened very carefully to the remarks with regard to the fact that there are interests that would like to throw all roads open to any truck that they want to drive on it.

Ms. GLUCK. Yes.

Senator EXON. And I for one do not agree with that at all. I think that is where the state regulation has to come in, and therein once again lies the dilemma that we are in because of the different situations in the different states.

I am convinced from the information that has been brought to my attention that there are some states that have been using the state authority as a revenue raiser. What is wrong with soaking somebody from way off in Nebraska, or way off in California?

What is the reason, why do we not soak them in New Jersey or Pennsylvania or someplace else? Pretty hard to get arguments on that from the local constituency, unless they understand that when they get into this situation, they are adversely, potentially adversely affecting the economic development and the free movement of interstate commerce in their state.

So once again, I would hope that we would not have to do this. But we are continually faced with this problem that is causing grave concern. So basically, does the 10 foot or more width make sense?

And I would direct your attention to the fact that the law states that unless the state or local government can convincingly demonstrate that it is not in order, is that a broad and maybe too broad a generalization? Or developing a category that will not work? What is your view as experts in this area?

Ms. GLUCK. From a parochial view, from New Jersey's point of view, sir, 10 foot is a residential street. I mean, 10 foot wide is a residential street in New Jersey.

We have circles, roundabouts that we are trying to eliminate. Ten foot would mean the roundabout. There are a number of driveways that might be involved along that 10 foot width, and stoplights.

It is because we are so highly urbanized that that would present a problem for us. And that is from one state's point of view.

Senator EXON. Mr. Lucas.

Mr. LUCAS. Mr. Chairman, I would comment that, regardless of whether that number be 10 foot or 12 foot, there may be some areas in our state where, regardless of that width due to the horizontal-vertical alignment, passing sight distance, and other safety considerations, that would cause us a problem.

I realize there is some wording there that says, you know, the state can prove that. But I guess I have been involved in highways for 30 years, and I find when a piece of Federal legislation passes like this, suddenly those provisions get watered at some point by somebody, because somebody has eventually got to determine who is right and who is wrong, and it becomes the law.

And in my opinion, if that legislation passes, it will be a period of time until they will be running on 10 foot lanes forever. And that is my concern.

Senator EXON. That is certainly not what the author of that bill wants. But I am glad to be alerted to the possible problem. Mr. Herndon?

Mr. HERNDON. Mr. Chairman, I second what Mr. Lucas just said, that what you put down in the Federal law becomes the law of the land, not debatable.

I have particular difficulty with the 10 feet. That is two feet less than what we currently have as an objective for the lane widths of all Federal aid roadways. There are some exceptions where you are going to squeeze in turn lanes and things like that. You might take it down to 11 feet.

But that is really about as far practically as you can bring lane width. So when you bring it down to 10 feet, you are encroaching into some very serious, potentially serious safety matters, sir.

Senator EXON. Recognizing your concerns, many of which I think are legitimate, let me ask you, how do you suggest we solve the problem? You think there is one, I think. How do we solve it?

Mr. HERNDON. Sir, I have had the privilege of working with FHWA in a minor degree, and being on this TRB Study Group, and also having been on the NGA Truck Uniformity Panel, I am aware of some of these things.

One, whether it is one mile or two miles from a free area access from an interchange is probably dealer's choice, unless it can be proven to be unsafe, and we have even in our own state law provisions like that. So it is reasonable to specify something like that.

In terms of what is a terminal, we tend toward the idea that it is something other than a retail activity. And specifically, we have tried to keep these very large, extra long tandem trailer units out of the retail traffic environment.

That is our primary objective in the definition that we have for terminals, sir.

Senator EXON. Other members of the panel?

Ms. GLUCK. Well, I would agree with my two colleagues on the panel.

And I think that the TRB Study is something that, and I know that the preliminary study or draft of the study is due in July of 1989, is something which will shed a lot more light on this subject. And I would personally opt to wait for the study to come in with regard to how we proceed in the future.

I know it is difficult to make different standards for different areas of the country, almost as difficult as it is to make the same standard. But I would, I think New Jersey would prefer that we wait for the completion of the study.

Senator EXON. Wait for the study until next year?

Ms. GLUCK. Yes.

Senator EXON. The President of the American Trucking Association testified to the failure of states to utilize signs, markers, and maps to show the routes where larger vehicles are authorized to travel.

Would any of you care to respond to this or tell the Committee how you have solved this problem in your states?

Ms. GLUCK. Mr. Chairman, we have solved it in our state by using a map and four pages of description, with the twins even less than four pages.

But we have got a map, we did it with the industry, and we did the four pages, and in the case of the twins less than four pages, with the industry.

Senator EXON. Has that been generally satisfactory and not cause a lot of problems?

Ms. GLUCK. To my knowledge, Mr. Chairman, it has been satisfactory.

One of the problems that we have had in New Jersey is that the trucking industry would like to use a route that is very, very densely traveled. And when we finish Interstate 287 in the next

couple years, which we are working on right now, that prohibition will not be necessary, because the truckers will be able to use 287.

Now we cannot allow them on the route that they seek access to because it is bumper to bumper every single day of the week, and maybe even on weekends. And that is the only kind of comment we have had.

We have not had any comments with regard to the policies and the regulations that we have promulgated. We have worked very closely, they did not get everything they asked for, but they understand why in certain instances we cannot do that. That, we hope, will be alleviated with the completion of the interstates.

Senator EXON. Well, that would be the ideal way to set it, if we can. Mr. Lucas.

Mr. LUCAS. Mr. Chairman, in Alabama we have a committee which I alluded to earlier which is made up of personnel from the Highway Department, the Department of Public Safety, and our Alabama Trucking Association.

We have made available the routes, I think, in a very clear form to them. We have had no problems that I have been made aware of about knowing what routes were available to them.

We have a process whereby they can request additional routes, they can request additional access to a particular terminal if that comes to be a problem. In my opinion, when that does become a problem in a local area, we are going to hear from the local officials, whether it be the governor, the mayor, or the county commissioner in that area, if it is impacting jobs and so forth.

And I am not aware of where we have had a significant problem in those STAA vehicles that were in the law.

Senator EXON. Mr. Herndon, you had your hand up.

Mr. HERNDON. Mr. Chairman, we presently use a map system. In my own opinion, it is not working.

In fact, we have had at least one incident where local citizens called in wanting to know where these trucks could operate.

The problem with the individual map is that the individual citizen out there does not know when a truck is, where it should be or should not be if he is on his street. Now, he can inquire, but it is a long bureaucratic process.

Because of that, and also because I observed what Georgia has done, and they use a system of signing, it is recognized in the MUTCD, the manual for all these signs. I am advocating and pursuing within the State of Florida a process of going toward signing. In that instance, I do support Mr. Donohue.

Senator EXON. Thank you very much, folks. We appreciate your coming here. You have been helpful in advising us of some of the caution signs with regard to S. 1391, and we will take the matter under consideration. You are excused.

We will call the final panel for the day, with our apologies for holding you up for so long. Panel three is Mr. Gail R. Dieleman, the Transportation Manager for Economics and Regulation for General Mills from Minneapolis, and Gordon Kinch, Manager of Transportation, James River Corporation of Richmond, Virginia.

Gentlemen, thank you very much. We will begin with you, Mr. Dieleman. Please proceed. Both of your statements have been accepted in full as prepared for the record.

STATEMENT OF GAIL R. DIELEMAN, TRANSPORTATION MANAGER, ECONOMICS AND REGULATION, GENERAL MILLS, INC.

Mr. DIELEMAN. Thank you very much, Senator. My name is Gail Dieleman and I am the Transportation Manager for Economics and Regulation at General Mills.

General Mills, as you may know, is a national manufacturer of processed food products. You probably recognize us by the names of Gold Medal Flour, Cheerios, Wheaties, Betty Crocker cake mixes, and so on.

We had transportation expenses last year in excess of $100 million, most of which did occur by use of the truck mode. So we well know the problems of transportation.

Additionally, over 50 percent of our packaged food products are light density products. They cube out a truck or fill the volume of the space of the truck before the weight limitations are reached. Therefore, the larger trailers are important to us.

We have production facilities or flour mills in nine different states. And in addition, we are constructing a new plant in the State of Georgia at the present time.

Additionally, we use a number of contract packagers who do selected products for us. These facilities are scattered across the country also.

Many of our facilities and those of our contractors were built many years ago. They are frequently located some distance from the designated highway system, and in particular from Federal highways.

From our production facilities, our product moves to one of eight distribution centers, if we do not move it directly to the customer. At these distribution centers we combine the products from various plants to meet specific demands of our customer orders. I have listed these distribution centers in the attachment, and they are again in various states.

Again, these facilities were located years ago when General Mills was primarily a rail shipper. They are not necessarily located on or near a major highway. Therefore, sometimes access might be a problem.

Our customers are the grocery chains, the wholesalers, and the distributors. They are located in every state of the union. You have not named a state yet today where we do not have a customer.

They may be in the large cities, in older warehouse districts, or they might be located next to an interchange on the freeway system. Some of them are located in rural areas, with only state highway access.

Mr. Acklie mentioned this morning, I believe, that when the 48'/102"s were approved, his customers requested that he obtain them. Certainly General Mills was one of those customers who very strongly encouraged our carriers to obtain the new larger equipment.

We obtain approximately a 20 percent increase in productivity by using the 48'/102" trailer as compared to a 45-foot 96-inch wide trailer. That is because we can get at least four if not six more cubes or units of our product into those trailers. We gain additional

productivity through efficiencies on the warehouse dock and that sort of thing also.

We and the carriers presumed that DOT and the Federal Highway Administration would develop a designated system for these trailers that would allow ready access to nearly all points.

In fact, that has generally been true but there are unfortunately too many exceptions. Exceptions where we cannot legally get a piece of equipment into our customer to make the delivery.

As if this in itself were not bad enough, it also appears now that some states have chosen to make these larger and more efficient trailers a revenue-raising device. I think you have heard more on that this morning than I could possibly tell you.

As a shipper, I know that when our carriers experience these costs, sooner or later that cost is going to come back to General Mills in the form of increased rates for the transportation of our product. To do otherwise would mean his ruin.

We expect our carriers to be profitable. We expect to be in business with them for a good many years. We expect to pay them rates that allow them to make a reasonable profit. Therefore they are going to have to pass those expenses back to us.

We are in business to make a profit and a return for our stockholders. We in turn are going to pass those expenses on to our customers, and our customer is going to pass them on to you and me, the ultimate consumer, when we buy that box of Wheaties or package of cake mix.

I am not aware of any definitive evidence that supports the kind of activity that is using these types of trailers as a revenue-raising device. They have been approved for operation on a designated system. So long as they are operating on that designated system and within the access rules as promulgated by the states, I do not understand why there should be any kind of a permit required or asked for.

We do not expect that these trailers necessarily be allowed to operate everywhere. I have lived in four different states of the union, including Pennsylvania and Virginia, and I understand some of the road restrictions that very realistically exist in those states.

There are roads in the State of Minnesota, and probably even Nebraska, where I do not think I would care to meet one of these trailers necessarily. But by and large, there are very few of the major roads, the important roads in this country, where these trucks cannot operate safely.

That pretty much concludes my comments. I would just like to add that General Mills is a member of the National Industrial Transportation League. I have discussed these remarks briefly with them, in general terms.

I understand the NIT League will be submitting written comments for the record at a future date that will more or less parallel and support the comments that I have had to make. Thank you.

[The statement follows:]

STATEMENT OF GAIL R. DIELEMAN, TRANSPORTATION MANAGER, ECONOMICS & REGULATION, GENERAL MILLS, INC.

Good Morning. My name is Gail Dieleman. I am the Transportation Manager for Economics and Regulation of General Mills, Inc. with headquarters in Minneapolis,

MN. I am authorized by my employer to speak today regarding the issue of reasonable access for forty-eight foot, one hundred and two inch wide trailers.

General Mills is a national manufacturer of processed food products. You might recognize these products under the names of Gold Medal Flour, Big G cereals, such as Wheaties and Cheerios, Betty Crocker cake mixes, and Pop Secret microwave popcorn, to mention only a few. In support of these products, General Mills incurred a transportation expense last year in excess of $100 million, nearly all of which involved at least some highway transportation. Well over fifty percent of our packaged food product line is light density in nature and will fill the cubic capacity of a trailer before the legal weight limits are reached. With few exceptions, General Mills ships in full truckload quantities.

General Mills has production facilities and/or flour mills located in nine states. These facilities are listed Attachment I. We are also constructing a new plant at Covington, GA. Additionally, we utilize the services of a number of contract packagers, a representative list of which is included in Attachment I. Many of the facilities of General Mills and our contract packagers are older plants, often located some distance from the nearest Federal Highway.

From the production facilities listed above, product frequently moves to a General Mills Distribution Center where the products from various plants are combined to meet the demands of a particular customer order. These Distribution Centers are also listed in Attachment I. Again, many of these distribution facilities were located years ago when General Mills was predominantly a rail shipper and frequently they are some distance from a Federal Highway. As you can see from a look at the many, widely scattered locations used by General Mills, our carriers regularly travel through many states just to provide the service required for our own internal shipments.

Our customers are the grocery chains, wholesalers and distributors. They are located in every state of the Union. These customers may have a modern warehouse facility located next to an Interstate Highway or an old warehouse in the inner city miles from the nearest Federal Highway or they may be located in small rural communities with access only by state highways.

When forty-eight foot, one hundred and two inch trailers became legal in all states following the passage of the surface Transportation Improvement Act of 1982, General Mills strongly encouraged our carriers to obtain the new trailers. With the larger trailers, we immediately achieved significant productivity gains because we could load approximately twenty percent more product into the new longer and wider trailers.

General Mills and the carriers presumed that DOT and the Federal Highway Administration would develop a Designated Highway System for these trailers that would allow ready access to nearly all points. In fact, their efforts were significantly undercut by many of the individual states. The result is that a great many locations can not legally be accessed by what has become the standard trailer of the truckload carriers. As if this were not bad enough, many states have chosen to make these larger, more efficient trailers a revenue raising device. Others this morning have or will provide more information about that.

As a shipper, however, I know that sooner or later, each and every carrier that my company does business with will pass any and all costs on to us in the form of increased rates. To do otherwise would eventually mean bankruptcy for the carrier. In truth, we expect our carriers to be our business partners for years to come and we expect to pay them rates that allow a reasonable profit. That means that they will pass on any permit fees and fines at some point. General Mills in turn is also in business to make a profit for our stockholders. We must therefore pass these increased transportation costs on to our customers and eventually it ends up costing you and me, the ultimate consumer, more for that box of cereal or cake mix.

I understand and am sympathetic to the revenue needs of the various states. However, I am not aware of any definitive evidence that supports the premise that this particular size trailer should be the subject of a special permit requirement when it is operating on a specifically designated highway system. Such a fee is, I believe, discriminatory and constitutes a burden on Interstate Commerce. I also fail to understand why certain states have so strongly attempted to limit the ability of carriers to reasonably reach out beyond the designated highway system so that the transportation needs of the business residents of that state can be more efficiently met. I encourage this Committee to provide whatever assistance it can to resolve the great diversity among the states on this issue.

In closing, I would like to add that General Mills is a member of the National Industrial Transportation League. NIT League will be submitting comments for the

record at a later date. I understand that these comments will support the concepts of improved access and unimpaired movement of these trailers among the states.

Thank you for the opportunity to appear before your committee today.

ATTACHMENT I

PRODUCTION PLANTS

Buffalo, NY
Toledo, OH
Chicago, IL
West Chicago, IL
St. Charles, IL
Cedar Rapids, IA
Lodi, CA
Covington, GA (under const.)

FLOUR MILLS

Buffalo, NY
Johnson City, TN
Kansas City, MO
Des Moines, IA
Great Falls, MT
Vallejo, CA
Vernon, CA
Minneapolis, MN

DISTRIBUTION CENTERS

Mechanicsburg, PA
Chattanooga, TN
Orlanda, FL
Fostoria, OH
Galesburg, IL
Dallas, TX
Henderson, CO
Stockton, CA

CONTRACT PACKAGERS

Long Island, NY
Atlanta, GA
Rome, GA
Chicago, IL
Northfield, MN
Fargo, ND
Blackfoot, ID
Strausburg, OH
Ashton, IL
Brook, IN
Cassopolis, MI

Senator EXON. Thank you very much. Mr. Kinch.

STATEMENT OF GORDON A. KINCH, CORPORATE TRANSPORTATION COORDINATOR, JAMES RIVER CORP.

Mr. KINCH. Chairman Exon, my name is Gordon Kinch. I am Corporate Transportation Coordinator for James River Corporation, Richmond, Virginia.

James River is the country's second largest pulp and paper company, with major facilities in Michigan, Oregon, South Carolina, Washington, and Wisconsin, just to name a few of the 30 states where we have 118 operations.

The company operates its own fleet or more than 70 over-the-road trucks, and we regularly contract with more than 500 large and small motor carriers to get our products to our nationwide markets.

In addition, James River owns two short-line railroads and a barge company. So surface transportation is vital to the success of our business. And that is why we are appreciative of the opportunity to address you and the Committee this morning.

To begin, let me say that we certainly endorse the terminal definition in S. 1391. If only the IRS could adopt such clear, concise, easy-to-understand, common sense explanations.

Then too we wholeheartedly agree with S. 1391's criteria for reasonable access. Vocalizing the need for states to develop clear and

convincing evidence of access restrictions is my major purpose in being here this morning.

For fleets operating nationally, such as ours, and our contract carriers, the growing maze of restricted routes is turning our golden ribbon of highways, we Woody Guthrie called them, into the muddy, mired swamps.

Like the sands underlying most swamps, the highway restrictions out in the states are constantly changing, shifting, and waiting to slurp up the wayward motor carrier.

Just last week, one of our contract carriers described to me his problem in Massachusetts where one of his drivers received two over-length citations in 35 minutes. My carrier told me that many states have as many as 100 restricted routes, and that the routes change almost on a daily basis. His company averages $3,000 to $4,000 a month in fines for over over-width loads.

Now, this carrier has 1,200 drivers, and he tries to keep his drivers informed about the route restrictions. He supplies many of them with a looseleaf booklet listing the restricted routes they can expect to encounter.

In addition, his dispatchers devote close to two hours daily on long-distance telephone calls to bring the drivers up to date on restriction changes on their routes. He calculates that he spends $360,000 a year just on those calls.

Actually, he does not pay the $360,000 in long-distance or the $4,000 a month in fines. But you and I know who does, James River's ultimate customer, Mr. and Mrs. Consuming Public.

Surely there must be a way to bring order to the present state of excess chaos. Perhaps government, Federal or state, could do something as simple as taking advantage of modern technology and develop a state-specific 24-hour 800 number, CB accessible, that would allow drivers to call in and find out the latest restricted route designations.

The network could be coordinated by the Federal Department of Transportation, or by the individual state highway administrations, with the cost of the network paid for by per call charges billed to individual carriers.

Such a system would not solve the problem of access, but it could provide some measure of relief to our beleaguered motor carriers.

Surely a one or two-minute in-state call could be cheaper and more efficient than the present system of cross-country calls to dispatchers, and the resulting fines, that drivers cannot contact their dispatchers and get lost or disoriented.

Of course, restrictions are not just costly, inefficient, and time-wasting. Some of them are just plain dumb. For example, in Massachusetts, our trucks cannot make a delivery to one of our locations from the south, but they can make the delivery on the same road from the north.

We really do need some sort of national standards for determining routes so that we can remove the process as much as possible away from local politics and the whims of local government.

And I should add, it is time for the states to realize that just about every major truckload carrier fleet in the country has converted to 48'/102"s. That is reality. And the state legislatures need to recognize that reality and stop inhibiting progress.

We are not saying that states should not have the right to control access. We are just issuing a call that there be some sort of common sense guidelines or standards brought to bear on the access determination process. And the overriding standard in such determination, of course, should be safety.

Right now, many of the operating fees motor carriers pay to the states are just monies that go on directly into the general funds. We would welcome a national policy that would require a percentage of such operating fees be designated for safety education of drivers.

In a similar vein, there is a lot of talk these days about lowering the age limit on truck drivers. We believe that the government should look long and hard at accident statistics involving 18- to 20-year olds before making a change in the present age requirement.

We need more drivers, to be sure. But our greater need is for safer drivers, better educated, with professional attitudes about highway safety.

Because I know time is of essence, I will close by saying that your vision, Senator, and that of the Congress in enacting the Surface Transportation Assistance Act of 1982 was to increase productivity in the Nation's motor carriers with the resulting lowering of cost that such increases would bring.

I am happy to report to you that James River's productivity has increased, in many instances 15 to 20 percent, because of the STAA. And we believe that if we can alleviate some of the problems we have illustrated this morning, that we can increase our productivity another 10 percent.

We hope that you and the Congress will help us in achieving that goal, and I thank you.

Senator EXON. Gentlemen, thank you very much. It has been very interesting testimony. In fact, there has been a lot of interesting testimony this morning. Let me ask you this question to try and get a handle on the difficulties that we have.

Most of us think the passage of this Act in 1982 has been the reason for the increase in productivity—there are other reasons but that this was the main one—how did you as major shippers at that time envision the difficulties that you were almost bound to have with regard to local and state interpretations of what is safe and what is not safe and the whole matter of fines and so forth and so on?

That must have been a concern of yours at that time. How did you think it would work out? Would it work out better than it has through understanding, discussions, and accommodations? What were your thoughts?

Mr. KINCH. I believe we thought it would be more reasonable. Because, you heard testimony this morning from excellent carriers and shippers.

We went out right away, as we have talked about this morning, and asked our carriers to get 48'/102"s, with the belief, a full belief that the Congress intended that by working with the states we would be able to get access.

But we certainly found out, in trying to work with some of the states, that we were going to be denied the access. So it has not worked near as well as we believed it would.

Mr. DIELEMAN. I would echo his remarks. We felt fairly strongly that, at the time the Act was passed, and with the understanding we had of the provisions for the designated highway system, that that system would be a fairly comprehensive complete network that would allow us access to virtually all of our customers.

We did not anticipate any particular problems for any of our own facilities. And I think over time it has worked reasonably well. But there were then, have been individual problems.

We have had problems in New York with our Buffalo production plant and flour mill. That is a dormant issue at the moment. I am not totally sure whether it has been resolved or just laid to rest temporarily.

We faced potential problems with our plants in California, through regulations there that at one time, and perhaps still, would require any facility requesting a designated route to that facility to pay the expenses of surveying, evaluating the route, and signing the route as a designated access.

For one of our plants, we estimated that had we had to go through that, it would have cost us perhaps $50,000, for a distance basically through a rural countryside on a straight road of about six miles.

Senator EXON. Mr. Kinch, I want to compliment you for your positive suggestion with regard to the 800 number. I mean, that might be some of the ways that we can do these things easier.

One of the reasons that we hold these hearings is to see if we can get you people who are experts in the industry to come in and make suggestions to us that otherwise may never see the light of day. And so I congratulate you for that.

As operators of major fleets, and you have heard the previous testimony today with regard to the Department saying that there are eight states, six to eight states that are the major problems, and the industry saying it is larger than that, in the area of 17 states with a major problem or potential problems.

Do you agree with those two categories? Or do you think the potential for difficulty may expand unless we better define what was intended in the Act in the first instance? I am asking what your experience has been, and what you see as far as the future is concerned.

Mr. KINCH. I would not categorize it in two distinct groups. I think it changes by the hour or the month or whatever.

It is a pity to have to say that, but that is the way I believe it is.

Senator EXON. The uncertainty of it all drives you crazy. Is that what you are saying?

Mr. KINCH. Yes, sir. And I believe that it is going to get worse.

Mr. DIELEMAN. First of all, let me just say that General Mills is not a private fleet operator per se. We do have two small subsidiaries who do have their own private fleets. However, they do not happen to operate 48'/102" wide vehicles. So that is not a problem that we deal directly with.

But from the standpoint of how our carriers must deal with it, and having followed the ATA efforts in the past few years on many and various taxation issues, including discriminatory taxation, in-state versus carriers coming in from outside the state, I have a feeling that if we do not further define the terms, down the road we

may see the same sort of application of permits and that sort of thing as a revenue-raising device.

Senator EXON. Gentlemen, I thank you very much, and we will keep the record open for additional comments and answers to questions for a two-week period.

In closing the hearing this morning I want to thank all who have come here to testify. It has been a tremendous help to the Members of the subcommittee, and will be of help in the future as we continue to move forward in solving the problem.

Just let me conclude by emphasizing once again that I had been hopeful that we would not have to move forward with any type of legislation in this area, provided people could be reasonable.

But when we are dealing with, you know, a great number of people, and a great number of entities, from the states down to the local entities of government, I think maybe that I have been too optimistic with regard to the ability to sit down and work things out.

I hope we do not have to pass legislation, but I am becoming more and more convinced that we are going to have to. But in any event, what you have done and said here this morning has been extremely helpful to us, and we thank you and all the previous witnesses. And with that, we are adjourned.

[Whereupon, at 12:35 p.m., the hearing was adjourned.]

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ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF THE AMERICAN AUTOMOBILE ASSOCIATION

The American Automobile Association, representing more than 29 million member motorists, welcomes the opportunity to comment on large commercial vehicle "reasonable access" as mandated by the Surface Transportation Assistance Act of 1982 and particularly the definition of "terminal" included in that Act.

REASONABLE ACCESS

AAA believes the federal government should defer to state and local government officials in the selection of appropriate points of access and egress from the National Truck Network to accommodate the needs for fuel, food, lodging, repair, and access to terminals.

State and local officials should retain the flexibility to prohibit larger vehicles from existing the federal network onto local roads according to the dictates of changing conditions. If a particular exit or group of exits off the Network leads to one or more roads unsuitable for the larger trucks mandated by the 1982 Surface Transportation Assistance Act, state and local officials should be guaranteed the discretion to prohibit such trucks from using that exit or group of exists (except in emergency situations).

Moreover, if an entire segment of the Truck Network adjoins an area unsuitable for larger trucks because of traffic mix, congestion, or for any other reason, state and local officials should have the option of prohibiting those trucks from exiting that highway anywhere along that segment of road. This *"drive-through"* concept would allow interstate commerce to proceed, but would also ensure that the reasonable access concept incorporated into the 1982 STAA could not be utilized to allow large vehicle combinations to travel roads on which they are unsafe.

AAA urges this Committee not to expand the concept of reasonable access for the vehicles mandated nationwide by the 1982 STAA. Year after year we have heard the trucking industry complain that it has not received the productivity benefits "promised" in 1982. Yet in 1984, the industry gained major concessions in unlimited access for single 102-inch-wide, 28-foot trailers.

Now the trucking industry claims it needs a federal definition of reasonable access because a handful of states, in response to local needs, have limited access beyond the designated system. Each of these states has specific road or traffic conditions making unlimited travel by large vehicles inherently dangerous.

Any rule setting an arbitrary distance for access off the system, if applied nationwide, would fail to assess the individual characteristics of terrain, grading, lane widths, sight distance, horizontal curvature, bridges, traffic volume and vehicle mix, intersection geometrics, and the vulnerability of roadside hardware. These are the criteria for safety set forth by this Committee in its report accompanying the Tandem Truck Safety Act of 1984 for routes of travel on the National Truck Network. They should apply with equal validity to off-system access roads.

AAA fears that any uniform definition of access will preempt state police powers to safeguard public safety and rule out state attempts to make individual, on-site determinations as to whether specific roads can safely handle longer, wider combinatin travel. States and localities are in the best position to determine whether an exit or group of exits leads to an area unsuitable for the safe passage of the STAA vehicles.

TERMINALS

AAA urges this Committee to avoid a definition of terminal which could be construed to include point of pickup to point of delivery. Focusing upon the destination of the vehicle, instead of the route taken, presents a major departure from previous National Network policy and ignores all considerations of safety. Such an approach would place the desires of commerce above the needs of safety, and therefore it is clearly unwise.

AAA is especially concerned about the use of combination vehicles with 48-foot trailers off the designated truck route network. We oppose any liberalization of access to give drivers of such vehicles the freedom to choose points of loading and unloading.

The 48-foot trailer has serious offtracking problems because its turning radius substantially exceeds that commonly contemplated in highway design of past years. When a 48-foot trailer is operated on highways of older design, the trailer moves out of its lane on curves and at intersections, resulting in collisions with vehicles in adjacent lanes and destroying signs and other roadside hardware.

It should also be stressed that increasing access for 48-foot trailers wuld be expensive. The long wheelbase of 48-footers would require extensive ramp reconstruction and lane widening in many states. Political and economic pressures on the Highway Trust Fund and local highway revenues make competition keen among construction projects. The first priority must be to upgrade the designated system itself. Vital improvements on access roads may be postponed, leaving dangerous and deteriorating conditions at curves and intersections.

AAA believes states are the best judges of what constitutes a "terminal" within their jurisdictions. The definition proposed by the National Industrial Transportation League (as noted by FHWA in the Federal Register, Vol. 52, No. 2, Monday, January 5, 1987, page 299, ". . . it would define the word 'terminal' as any industrial, commercial, or job site location used for origination or termination") is unacceptable. It is practically a "door-to-door" definition and would seriously weaken the concept of the National Network, thus undermining highway safety.

If Congress considers the definition of the word "terminal," AAA strongly recommends the one adopted by the New York Department of Transportation following passage of the STAA of 1982, namely: "A 'terminal'. . . is a highly specialized distribution facility where longhaul inter-city freight is delivered from original points of origin, or stored, or distributed to final points of destination, or any combination, thereof."

SUMMARY

AAA does not believe that "reasonable access" for the wider, longer, and heavier trucks mandated by the 1982 STAA should be expanded by a federal definition of the term.

The respective states continue to be the appropriate authorities to regulate traffic and to select appropriate points of access and egress for fuel, food, lodging, repair, and access to terminals. The states must retain this flexibility to bar vehicles from exiting the National Truck Network onto local roads that may be unsuited to safely carry these large vehicles.

It is premature to move toward expanding the National Truck Network. Section 158 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 mandates a study by the Transportation Resource Board on this and other truck size and weight issues. Continued monitoring by FHWA of reasonable access policy (and the threat of injunctive relief for potential abuse) is sufficient inducement to states to continue providing reasonable commercial vehicle access.

AAA appreciates the opportunity to coment on these issues and asks that these remarks be made a part of the hearing record.

STATEMENT OF R.V. DURHAM, DIRECTOR, DEPARTMENT OF SAFETY AND HEALTH, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. Chairman, my name is R.V. Durham. I am Director of Safety and Health for the International Brotherhood of Teamsters. On behalf of our General President Jackie Presser, I want to thank you for this opportunity to discuss our views concerning reasonable access for motor carriers to our nation's highways.

Mr. Chairman, as I know you are aware, the Surface Transportation Assistance Act of 1982 set up a careful balancing of the productivity interests of shippers and motor carriers with the legitimate safety concerns of local communities, state and local governments, truck drivers and other motorists.

The carriers won the right to run wider, longer, and heavier trucks than they had previously been able to run on many parts of the Interstate and Designated Highway System. The carriers also won the right to run doubles throughout the U.S. In addition to these highways themselves, the states were required to allow these large trucks "reasonable access" to terminals; to facilities for food, fuel, repairs, and rest; and to points of loading and unloading for household goods carriers.

With this considerable new freedom to operate that Congress gave the carriers in 1982—and it should be remembered that this was a very substantial change in the carriers' favor—the Congress wisely left it to state and local lawmakers to consider just what kind of access is "reasonable," given local conditions. We supported this approach in 1982, and we think that it has withstood the test of time fairly well.

We recognize that there are a few isolated situations where state authorities have been a little more restrictive in their view of what is "reasonable" than you or I might have preferred. I suspect that there are cases where the states have been too permissive for the taste of some people, too. But we don't hear as much about those.

I was a member of the Transportation Research Board committee that conducted the study of twin trailer trucks which you mandated in the Surface Transportation Assistance Act. Our staff interviewed a number of motor carriers running doubles. We found that, except for a few isolated situations, access restrictions had not prevented their companies from using doubles advantageously. The carriers reported that many of the problems they had at first in accessing their terminals had been worked out in time.

On balance, Mr. Chairman, I would suggest that this law has worked out fairly well. And mechanisms exist to work out those few problem areas that remain. I urge you, Mr. Chairman, to resist the urge to "fix" what is not really "broke."

Mr. Chairman, I think that if we focus too much on the convenience and productivity concerns of the trucking companies, we can lose sight of the fact that state and local governments have legitimate public safety concerns that lead them to place restrictions on travel by large trucks on their local streets.

We talk a lot about lane width, and it is true that when you put an 8½-foot wide truck on a traffic lane of ten feet or less, and add mirrors, you can end up with a truck that is wider than the traffic lane.

But it is not just width that is a factor, it is also length. Even if you can fit a truck on a straight road, these trucks will not be able to stay in their travel lanes on many curves on country roads. And they are not able to make turns safely at many intersections in cities and towns.

The TRB committee on twin trailer trucks noted these kinds of problems with regard to 48-foot semi-trailers, particularly if they are 102 inches wide. But one fact that we have to recognize is that in most states, we are not talking about access for 48-foot semi-trailers anymore. In most states, we are looking at STAA-permitted semi-trailers of at least 53 feet, and up to 59½ in a couple of states.

So it is important to consider access in connection with what is going on in terms of truck lengths. For example, the state legislature in Tennessee is under increasing pressure to raise its maximum semi-trailer length from 50 to 53 feet, partly because most of the surrounding states are at 53 or more. We would not be surprised to see the industry coming to you in the not-too-distant future to try to get the STAA minimum length increased from 48 to 53 feet in the interest of "uniformity." According to the March, 1988 issue of Heavy Duty Trucking magazine, the industry is looking not only for semi-trailer lengths of at least 53 feet, but eventually for 35-foot twins. What will happen if by the time they came up to Capitol Hill with these requests, the Congress has already eroded or eliminated the right of states to exercise some control over what vehicles are permitted on their roads?

There are other public safety considerations related to access as well. For example, passing sight distances on many rural state roads are not even designed for 48-foot semi-trailer trucks . . . much less 102-inch wide, 53-foot or longer semi-trailers or doubles.

We understand, for example, that the California Department of Transportation has performed a systematic computer-aided study of their roads, and has identified certain roads where large trucks would have trouble traveling safely under any conditions. In this kind of situation, we would support the state's right to restrict large truck travel on those roads.

Mr. Chairman, we know that you have introduced a bill, S. 1391, which would very greatly reduce the states' ability to regulate large truck travel on non-designated routes. I have to respectfully tell you that the International Brotherhood of Teamsters is unable to support any part of that bill.

Section 1 of your bill would make it extraordinarily difficult for any state or local government to restrict large truck access on any road with traffic lanes designed 10 feet wide: No matter how tight the intersections are, no matter whether that truck can stay in its lane going around a curve, and pretty much regardless of any other traffic safety considerations. Even on roads with traffic lanes less than ten feet wide, S. 1391 would require the state or local government to grant permits.

Section 2 of the bill just completely opens up the definition of a "terminal," so that a "terminal" becomes any place a carrier wants to pick up or deliver freight.

This is simply unconscionable. Anyone in transportation knows what a terminal is. You in the Congress knew what a terminal was when you wrote the Surface Transportation Assistance Act. You also knew that terminals are generally located convenient to highways so that these large trucks do not have to do a lot of fighting of traffic on roads that are not designed to handle them. It is obvious that, with good reason, you specifically chose not to let anyone except household goods carrier take these large trucks directly to every point of pick-up and delivery.

Taken as a whole, S. 1391 would for all practical purposes grant almost unrestricted access for large trucks to virtually every road in the country with 10 foot wide travel lanes. (Note: We can craft an outlandish example or two to fit the subcommittee membership. But probably not for Exon: Apparently, anything goes in Nebraska already.)

Mr. Chairman, I want to stress that the Teamsters Union is very supportive of measures that benefit the economic health of the trucking industry. The jobs of hundreds of thousands of our members depend on that health—a fact of which we have been painfully reminded all too frequently in the last several years since the industry was deregulated.

But the lives and safety of our truck driver members, and of more than a million other Teamsters who share the highways with them in their personal cars, are also involved here. We think that the balance that was struck in 1982 when you passed the Surface Transportation Act has proven to be a reasonable, responsible one. We urge you not to upset the balance now.

Mr. Chairman, I want to express my appreciation and that of the Teamsters Union for this opportunity to share our views with you in this important subject.

STATEMENT OF JAMES C. HARKINS, EXECUTIVE DIRECTOR, REGULAR COMMON CARRIER CONFERENCE

I. INTRODUCTION

The Regular Common Carrier conference (RCCC) submits this statement on behalf of the less-than-truckload general freight trucking companies. We appreciate the concern and willingness of Chairman Exon and this Subcommittee on Surface Transporation to holding hearings on this important matter of reasonable access for trucks authorized to operate on our Interstate Highway System.

The RCCC supports the bill, S. 1391, introduced by Subcommittee Chairman Exon, as well as the companion bill in the House of Representatives, H.R. 2697, introduced by Congressman Nick Rahall. These bills would amend Section 412 of the Surface Transportation Act of 1982 (STAA) in three important areas.

First, they would create a presumption that motor carriers should be allowed acess on routes having traffic lanes designed to be of at least ten feet in width. A state or local government would be allowed to impose restrictions only if they can demonstrate that safety consideration require a restriction and have considered: (1) the effect of such a restriction on neighboring communities and states that might be affected; (2) the burden on interstate commerce; (3) whether an alternative route exists, is as safe, and is not unduly circuitous; and (4) whether facilities for fuel, repair, food, and rest are regularly available on the alternative route.

Second, the bill would allow the state or local governments almost unlimited discretion to restrict these vehicles on routes having lane widths less than ten feet. They would, however, have to allow a person the right to petition to use a particular route when he or she can demonstrate its safety.

Finally, the bill defines what constitutes a terminal. It would embrace any facility where freight is loaded or unloaded or where a commercial motor vehicle is manufactured or regularly maintained or stored.

If enacted, S. 1391 would provide the productivity benefits which Congress intended in 1982 and which the trucking industry paid for through higher federal taxes. It will not adversely affect safety on our roads. Studies and operating experience have proven that these STAA vehicles are as safe as the vehicles they replaced. Moreover, the bill retains the right of the states to impose restrictions when a route poses a legitimate safety problem. However, state restrictions imposed for political, economic, or arbitrary reasons would be prohibited.

The bill provides the necessary federal guidance to the states and local governments on what and where access is required, as well as what procedures should be followed.

For these reasons, the RCCC supports S. 1391.

II. IDENTIFICATION AND INTERESTS OF THE RCCC

The RCCC is a national trade association that represents approximately 400 for-hire trucking companies which operate throughout the United States. It is affiliated with the American Trucking Associations, Inc. The RCCC trucking companies are primarily transporters of less-than-truckload (LTL) shipments of general commodities, although they also transport to a lesser extent truckload shipments. They provide a service to and from all places in the United States. In their daily operations, they pick up cargo in less-than-truckload lots at the shippers' facilities and ordinarily bring it to their terminals where it is consolidated with other shipments. The consolidated shipments are made up into truckloads and cargo then transported to their destination terminal where the truckload is disassembled, and placed in delivery vehicles for delivery to the receivers' facilities. In the case of truckload shipments, the motor carrier typically dispatches a tractor-trailer combination to the point of loading. From that point the truckload may be routed through its terminal system or taken directly to the receiver, depending on the destination and carrier operations.

To maximize productivity and meet competitive demands, the RCCC motor carriers have purchased the lion's share of STAA-authorized twin 28 foot trailers and also a substantial amount of 48 foot long, 102 inch wide trailers. They have invested hundreds of millions of dollars in this state of the art, productive equipment. It is essential that they have reasonable access to and from the federal highway system to their terminals and points of loading and unloading in order to provide the most productive, competitive, and least costly transportation service. Accordingly, the RCCC members have a substantial interest in this legislation.

III. THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

The STAA was enacted in 1982 in response to Congressional concern over conflicting and restrictive state laws regarding the use of the national highway system by commercial truck vehicles. Prior to the 1982 act, twin 28 foot trailers were illegal in fourteen eastern states. Forty-eight foot semitrailers were in limited use in some parts of the country prior to the 1982 act, in large measure, because thrity-five states either directly or indirectly barred their usage. In addition, vehicles with 102 inch widths were prohibited in forty states. Furthermore, three so-called "barrier states" hampered interstate transportation by precluding tractor trailer combinations having 80,000 pounds gross vehicle weight.

To correct this patchwork and inefficient system of state laws controlling interstate truck tansportation, Congress enacted the STAA. The 1982 act established uniform regulations governing the size, weight, and arrangement of trucks used in interstate commerce.

First, the act prohibited a state from imposing a vehicle length limitation of less than 48 feet on semitrailers, of less than 28 feet on single twin trailers, an overall length limitation on tractor trailer combinations, and a vehicle width limitation of less than 102 inches. See, 49 U.S.C. §§ 2311(a) and (b) and 2316.

Second, the act preempted state restrictions on the use of the Interstate system by these longer and wider vehicles.

Finally, the STAA established in Section 412 the requirement that the states provide reasonable access to and from the Interstate system for these vehicles. Section 412 provides as follows:

"(a) No State may enact or enforce any law denying reasonable access to commercial motor vehicles subject to this chapter between (1) the Interstate and Defense Highway System (other than any segment thereof which is exempted under section 2311(i) or 2316(e) of this title) and any other qualifying Federal-aid Primary System highways, as designated by the Secretary, and (2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers and for any truck tractor-semitrailer combination in which the semitrailer has a length not to exceed 28½ feet and which generally operates as part of a vehicle combination described in section 2311(c) of this title.

(b) Nothing in this section shall be construed as preventing any State of local government from imposing any reasonable restriction, based on safety considerations, on any truck tractor-semitrailer combination in which the semitrailer combination in which the semitrailer has a length not to exceed 28½ feet and which generally operates as part of a vehicle combination described in section 2311(c) of this title." 49 U.S.C. § 2312.

In sum, the STAA was intended to establish a national network for longer and wider commercial truck vehicles by federally mandating certain minimum vehicle lengths, widths, and gross weights. Congress recognized that in today's environment

these vehicles could operate safely and provide productivity gains to the industry, the economy, and consuming public. Moreover, Congress wisely gave the states limited authority to impose restrictions on access when based on legitimate safety reasons and when limited to their local roads.

It almost goes without saying that the productivity benefits intended by the act require not only usage of the Interstate System, but also reasonable access on and off it since the origins and destinations of freight, as well as facilities for repair, fuel, food, and rest, are normally at locations off the interstate network.

To fully achieve the reasonable access Congress intended in Section 412 of the STAA, there needs to be further federal standards. Although the Federal Highway Administration has commenced a proceeding, docket No. 87-1, to establish federal rules,[1] final rules will not be effective for about 18 months pending completion of a study by the Transportation Research Board. That is too long a wait for a rule which may or may not provide the necessary standards. Furthermore, it is unnecessary since STAA vehicles already have a proven safety record.

IV. THE SAFETY RECORD OF STAA VEHICLES JUSTIFIES BROAD ACCESS

In 1986, the Transportation Research Board (TRB) conducted a study of STAA vehicles. The TRB study extensively analyzed the safety impacts of STAA vehicles and compared them with other vehicles, and in particular 45 foot trailers with 96 inch widths. The TRB's general finding was that the replacement of 45 foot trailers with STAA vehicles will not adversely impact safety, especially since the larger capacity of these vehicles will reduce the number of trips necessary to haul the same amount of tonnage.

Specifically, the TRB study found that "twins' accident rates in general appear slightly higher than those for tractor-semi-trailers." (TRB study at page 135). However, "there is not significant diference in accident severity." Id. While twins tend to be more difficult to control than 45 foot trailers, they had significantly less offtracking at low highway speeds. *Id.* at 119. TRB found that 102 inch wide trailers, whether twins or 48 foot trailers, demonstrate a "substantial improvement in roll stability over 96 inch trailers." Id. at 121.

In comparing 48 foot trailers with 45 foot trailers, TRB concluded, "The handling and stability characteristics of 48 foot semitrailers are similar to those of 45 foot semitrailers except for increased low-speed offtracking by the longer combination, which may increase the frequency of intersection accidents. The wider vehicles have significantly improved roll stability, but otherwise their performance is similar to that of 96 inch wide vehicles." Id. at 135.

TRB's review of the most recent federal and state accident data at that time did not provide a basis for revising these conclusions. Id. at 148. It is noteworthy that TRB reported that a special monitoring program commenced by FHWA in 1983 involving seven states which were collecting data on miles, accidents and fatalities for multi-trailer and single-trailer combinations and other vehicles on the federally designed network, preliminarily showed lower accident rates for multi-trailer combination trucks. Id. at 142.

The survey data supplied by the RCCC trucking companies in 1987 confirm the good safety records of twins. The following operational data for 1986 are illustrative and representative of our members' most recent safety records with twin trailers.

Arkansas Best Freight System, which owns and leases 9,188 twenty-eight (28) foot trailers, indicates that in 1986 its twins logged 127 million miles and had .42 BMCS reportable accidents and .04 fatalities per one million vehicle miles traveled. In contrast, its 45 foot trailers, which traveled 47 million miles in 1986, had 1.59 reportable accidents and .04 fatalities per one million vehicles traveled.

Carolina Freight Carrier Corporation indicated that the number of reportable accidents per one million miles traveled for twin trailers is .38 compared with 1.04 for 45 foot 96 inch wide trailers. The number of its fatalities per 1 million vehicle miles is .04 for twin trailers and .02 for 45 foot trailers.

Central Freight Lines, Inc., which operates 1200 28 foot trailers, reported that its twins have .03 reportable accidents per one million vehicle miles compared to 0.5 for its 45 foot trailers.

Churchill Truck Lines, which uses 450 twin trailers, stated that its twins have .19 reportable accidents per one million vehicle miles traveled, while its 45 foot trailers had .16 accidents.

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[1] FHWA Docket No. 87-1, Truck Size and Weight; Reasonable Access, Advanced Notice of Proposed Rulemaking, published 52 *Fed. Reg.* 298 (January 5, 1987).

Preston Trucking Company, which operates approximately 3000 28 foot trailers, had 1.86 reportable accidents per one million vehicle miles traveled for its twins in comparison to 4.37 for its 45 foot trailers. They had no fatalities with either type vehicle in 1986.

Red Arrow Freight Lines, which operates 196 28 foot trailers and 130 forty-eight (48) foot trailers, indicated that it had identical 2.2 reportable accidents and zero fatalities per one million vehicle miles traveled for its twins, 48 foot trailers and 45 foot trailers.

H&W Motor Express Company had only .25 reportable accidents per million miles for its twins compared with .75 for its 45 foot trailers. It had no fatalities in 1986 with either vehicle type.

Smith's Transfer Corp., which has 1900 twenty-eight (28) foot trailers, reported that its twins and 48 foot trailers had .05 reportable accidents and zero fatalities per one million vehicle miles, while its 45 foot trailers had .33 and .02, respectively.

Finally, Transcon stated as follows:

"Our safety record at Transcon in 1986 shows that we had only 40 D.O.T. Reportable accidents. Eighteen (18) with single units and 22 with doubles units. Our total line-haul miles driven in 1986 was 97,333,267 miles, of which 19,099,267 were single units and 77,734,098 miles were doubles units. The miles per accident on singles was 1,061,065 miles and the miles per accident on doubles units was 3,533,368. Eighty (80%) of our total miles in 1986 was with doubles units. The safety record of doubles is therefore considerably better than the standard single unit."

In sum, the actual road data indicate that twins have a superior record to that of 45 foot trailers. When one realizes that twin trailers have approximately 25 percent more capacity than 45 foot trailers, the expanded use of twins means an even greater improvement in road safety. For example, four twin combination units have the equivalent capacity of five forty-five foot combination units. Therefore, the use of twins could potentially reduce the number of combination units on the road and exposed to the risk of accidents by 20 percent.

The RCCC members are committed to safety. They have extensive driver training programs and fleet maintenance operations. This commitment is reflected in their good safety records. Consequently, because of this safety record and substantial productivity gains they are increasingly replacing their 45 foot trailers with twin trailers. Thus, now more than ever, the trucking industry and the nation needs reasonable access.

V. SOME STATES IMPOSE UNREASONABLE RESTRICTIONS ON ACCESS

In its statement, the American Trucking Association has set forth the types of access provided by the various states and discussed the cumbersome permitting process that some states employ. It is fair to say that currently 17 states present access problems. They are: Alabama, California, Connecticut, District of Columbia, Florida, Georgia, Maine, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Vermont, Virginia, and West Virginia.

The restrictions imposed within the states of Pennsylvania and New York have already been found by federal courts to be unreasonable. They imposed restrictions not for safety reasons, but rather for political or economic ones. For example, the court noted the following on Pennsylvania's regulatory scheme: [2]

"The evidence in the record shows that municipalities often have no reason at all for denying a particular route. Municipalities have frequently denied routes that local Department of Transportation districts would have approved had the routes been under the department's jurisdiction. . . . Some municipalities have a policy of automatically denying or refusing to respond to all applications for access routes. Most notably among these is the city of Philadelphia . . .

Other municipalities are completely ignorant of the characteristics of STAA vehicles. . . . They consequently base denials on factors that are not relevant simply to STAA vehicles, but rather to large commercial vehicles that already run on the proposed route, or to all vehicles generally, or on factors that are irrelevant to safety altogether. For instance, one township believed that the trucks presently using the requested route into the terminal, principally non-STAA semis, were tearing up the township road and the township board wanted the trucking firm to rebuild the road for them. Consequently, the township denied the requested access route for twin trailers in an attempt to force the company to make the repairs. No safety reason or

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[2] *Consolidated Freightways Corp.* v. *Larson et al.*, Civil Action No. 84-0222, opinion rendered (M.D. PA Nov. 16, 1986). (Hereinafter "Pennsylvania case".)

operating characteristic unique to twins was given for the denial. . . . Other townships have cited intersection maneuverability as a reason for denying access to twin trailers when, in reality, the turning radius and therefore maneuverability of a twin trailer combination vehicle is actually more favorable than in a semi . . . Still other municipalities base denials on such irrelevant and improper factors as . . . public attitudes toward large trucks, and other political considerations. (Pennsylvania case at pages 34–36, citations to the record omitted.)

Many states limit access to a fixed number of feet or miles. For example, Pennsylvania allowed access on local highways having twelve foot lanes for a distance of two-tenths of a mile for purposes of reaching facilities for food, fuel, rest, repairs and terminals. Since most facilities were beyond this point, special permits were required. The federal court found this aspect of the state's system to be unreasonable.

S. 1391 would serve not only to provide guidance for state and local governments that are uninformed of the requirements of the STAA, but also provide legal constraints against those which intentionally violate the law.

VI. S. 1391 IS CONSISTENT WITH INTENT OF CONGRESS IN THE STAA

In the STAA, Congress intended safety to be the sole consideration in a state's determination on access. The House Committee Report on the STAA notes that the provision requiring the states to permit STAA vehicles reasonable access "is not intended to preempt a state's reasonable exercise of its police powers *with respect to safeguarding public safety* on roads within the area of its jurisdiction." [3] (Emphasis added). Stated differently, the states can impose restrictions when based on legitimate and demonstrated safety problems on their roads peculiar to STAA vehicles. S. 1391 appropriately makes safety the governing factor on whether access should be permitted.

The "reasonable access standard" in the bill requires the states on routes with lanes of at least ten feet in width to evaluate specific criteria which affect safety. These criteria closely follow those statutory criteria which a state must employ when seeking DOTG approval to exempt a portion of the interstate system from the STAA provisions. See, 49 U.S.C. § 2311(i). That exemption provision requires the state to produce evidence of specific safety problems, consider the effect on adjacent areas, and consider alternative routes. Since Congress considered these factors relevant to a request for exempting and interstate segment from the STAA requirements they provide a logical basis for allowing access to and from the Interstate system.

Therefore, S. 1391 is consistent with the original intent of Congress is the STAA. Importantly, however, it will eliminate the need for the trucking industry to pursue costly and time-consuming litigation on a state-by-state and locality-by-locality basis to achieve the access to which it is entitled.

For these reasons, the Regular Common Carrier Conference supports the enactment of S. 1391.

STATEMENT OF LEONARD W. LEVINE, COMMISSIONER, MINNESOTA DEPARTMENT OF TRANSPORTATION

Mr. Chairman, I am Leonard W. Levine, Commissioner of the Minnesota Department of Transportation.

On behalf of the Department, Mr. Chairman, I am pleased to respond to your invitation to present our views on the proposals on reasonable truck access to terminals and facilities that are located off the National Truck Network.

Mr. Chairman, for convenience, I have organized this testimony into background material and a statement of Minnesota's position on access.

BACKGROUND

Mr. Chairman, as you know, the Surface Transportation Assistance Act of 1982, in an effort to promote more uniformity among the states, established a national network of routes on which a truck tractor could pull a 48-foot long semi-trailer or two 28-and-a-half-foot long semi-trailers. Such trucks, commonly called "STAA vehicles," may be up to 102 inches wide. Tractor and overall vehicle combination lengths

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[3] Surface Transportation Assistance Act of 1982, H.R. Rep. No. 55, 97th Congress, 2nd Sess. *reprinted in* 1982 U.S. Code Cong. & Ad. News, 3639, 3662.

In 1984, Congress reinforced that safety is to be the sole governing factor when it limited state restrictions on single 28 foot trailers to safety considerations. See, 48 U.S.C. § 2312(b).

are unlimited. States may not impose more restrictive dimension limits on vehicles traveling on the network, and are required to allow STAA vehicles reasonable access to terminals and to facilities for food, fuel, rest and repairs located off the network.

In Minnesota, we have about 5,000 miles of highway which are part of the network. Truck operators who wish to use undesignated routes for access to terminals and other facilities make requests to the same Minnesota Department of Transportation office that issues permits for overweight and overdimension loads. That office approves or denies a request based on an evaluation of the route's ability to safely accommodate the large vehicles. This procedure provides trucks with reasonable access to the network while protecting the safety of Minnesota's motorists and minimizing truck-related damage to signs, signals, and other traffic control devices.

Mr. Chairman, we realize that the motor carrier industry is exerting mounting pressure on Congress and USDOT to write definitions of "terminal" and "reasonable access" into law or rule. The industry argues that state and local restrictions on access make it difficult or impossible to use STAA vehicles. It says that a national definition is the only way to realize the productivity gains intended by that Act.

MINNESOTA'S POSITION

We at the Minnesota Department of Transportation, oppose any federal action that would result in opening routes to STAA vehicles without prior evaluation by the appropriate state or local jurisdiction of the routes' ability to safely accommodate large trucks.

Mr. Chairman, uncontrolled expansion of the network would create two problems. First, and most important, traffic safety would be compromised. STAA vehicles are growing longer as tractor lengths increase. The longer the overall combination of tractor and trailer(s), the more difficult and dangerous it becomes to pass it or be passed by it on a two-lane, undivided highway. At intersections designed for the vehicles of the 1920's and 1940's, today's large trucks invade the lanes of opposing traffic during turning maneuvers in order to avoid running over curbs, guardrails, and traffic signs and signals. This increases the likelihood of traffic accidents and exacerbates congestion problems in urban areas, at times creating gridlock when long trucks are unable to negotiate a turn in heavy traffic.

Second, expansion of the network would impose substantial costs on state and local governments. The costs of maintaining shoulders, curbs, and traffic control devices damaged or destroyed by large trucks would increase immediately. In the long run, the costs of making the geometric changes necessary to accommodate STAA vehicles at many more intersections cold prove enormous. Because interchange modifications will have to compete with other transportation needs for limited resources, many safety problems created by expanding the network might go uncorrected for many years. Increasing access to the national network for STAA vehicles should be made concurrently with geometric changes.

Mr. Chairman, the Minnesota Department of Transportation firmly believes that provisions for access to the national network for STAA vehicles should remain a state prerogative.

Thank you for this opportunity to present the Department's views on this important issue, Mr. Chairman. I will be pleased to respond to any questions you might have.

STATEMENT OF THE NATIONAL ASSOCIATION OF GOVERNORS' HIGHWAY SAFETY REPRESENTATIVES

The National Association of Governors' Highway Safety Representatives (NAGHSR) is pleased to submit its comments on the issue of truck access. The members of NAGHSR manage state highway safety programs, primarily those funded with federal seed money under the section 402 program (Section 402, Title 23 U.S.C.). NAGHSR members are concerned about all aspects of highway safety, including occupant protection, impaired driving, speed, and truck safety. The organization is affiliated with the National Governors' Association.

As this Committee is aware, the Secretary of Transportation, under the provisions of the Surface Transportation Assistance Act (STAA) of 1982, is required to designate a national network of highways on which longer and wider trucks are allowed to operate. Additionally, the STAA of 1982 guaranteed these bigger trucks "reasonable access" to terminals and facilities for food, fuel, rest, and repairs. Household goods carriers and trucks with single 28½ foot trailers are allowed access to any point of loading and unloading.

In developing regulations implementing these statutory provisions, the Federal Highway Administration (FHWA) considered the possibility of a uniform, national definition of "reasonable access" and "terminal." However, the agency concluded that widely varying state and local highway conditions made a single federal definition inappropriate and unenforceable. FHWA, therefore, allowed the states to establish individual access provisions suitable to the particular highway conditions in each state.

Last year, at the behest of the trucking industry, language was added to the House Appropriations Report (100-202) directing the Department of Transportation (DOT) to publish a regulation defining "terminal" access for large trucks. The intent of the added language was to establish a rule permitting the wider, longer, and heavier trucks to travel from any origin to any destination on any state, county, or city road. The Department of Transportation is currently drafting a rulemaking implementing the report language. Legislation was also introduced in both the House (H.R. 2697) and Senate (S. 1391) last year to broaden truck assess in a manner consistent with the intent of the report language.

The safety concerns of allowing heavier, wider trucks on roads that are neither designed nor maintained for these vehicles are many. As a consequence, NAGHSR strongly objected to the language in the House Appropriations report and we do not support either the House or Senate bills.

TRUCK SAFETY

One of our major concerns is that the bigger trucks have a relatively poor safety record. According to a 1987 study funded by the Insurance Institute for Highway Safety (IIHS) ("Comparison of Passenger Vehicle and Truck Crash Rates on Toll Roads," by David F. Preusser and Howard S. Stein), heavy trucks are involved in more crashes per mile driven than cars, pickups, vans, utility vehicles, and motorcycles. The researchers found that tractor trailers also have higher multiple crash rates and higher fatal crash rates. When passenger vehicles and tractor trailers collided with each other, the researchers found, it was more often the passenger vehicle occupant who was injured or killed. On the New Jersey Turnpike, for example, the report authors found that tractor trailers were involved in 2.5 crashes per million vehicle miles traveled compared with 1.48 for passenger vehicles—a 69 percent difference. Differences of only slightly smaller magnitude were found in Kansas, Florida, and New York.

This study tends to confirm two IIHS studies which were conducted using data from earlier time periods. One of the previous studies examined the crash records of 21 turnpikes, parkways, and expressways and found that the crash rates for heavy trucks was 58 percent higher for heavier trucks than passenger vehicles. Even the 1986 National Research Council (NRC) study of the safety of twin trailers found that the bigger trucks cause increases in the number of accidents per mile (although the NRC concluded that twin trailers do not pose a major safety risk). The Research Council also found that reliable accident data from already-published studies do show higher accident involvement rates for twin trailers than for single-trailer trucks. Further, the NRC study indicated that field tests, simulation studies, and professional truck drivers all found twin combination trucks to be considerably more difficult to handle than trucks with only one trailer.

According to studies published by the U.S. Dept. of Transportation, one of every three tractor-trailers can be expected to crash in a year, compared to one of every 13 passenger vehicles, and one of every 26 smaller trucks. In crashes between cars and big trucks, car occupants are 35 times more likely to die than truck occupants. The rate increases to 52 times if the car is a subcompact.

The Office of Technology Assessment (OTA) is presently conducting a comprehensive study on motor carrier safety and intends to submits its findings and recommendations to Congress later this spring. According to recent testimony by the project director of the motor carrier safety study before the National Governors' Association, medium to heavy trucks are, in fact, involved in more accidents than passenger cars. OTA's investigation of accident and safety data found that the heavy truck accident rate per 100 million vehicle miles traveled has consistently been almost double the rate for passenger cars.

The safety risks posed heavy trucks can be exacerbated by the poor condition of the trucks, by mechanical failures (such as defective brakes), by excessive speed, by poorly trained drivers, and by driver fatigue and alcohol and drug abuse.

According to OTA's preliminary analysis of accident investigation data, excessive speed was the most frequent cause of truck accidents. OTA also found that a large number of truck drivers involved in accidents have prior records of speeding and

other moving violations. OTA found that the second most significant factor in truck crashes is the level of driver training, while the age of the vehicle was the third most significant factor. The American Automobile Association found in a 1985 study that fatigue is the probable/primary cause of 41 percent of all big truck crashes. Yet at least one-third of truck drivers violate the rule limiting them to ten hours of continued driving. There is relatively little data on the amount of alcohol and drug abuse that truck drivers are involved in, but one federal report indicates that alcohol was a factor in 24 to 36 percent of all crashes in which the truck driver was killed. More than one in four trucks checked in a recent inspection in three New England states were placed out of service for faulty brakes, tires, and steering mechanisms.

Large trucks become even more dangerous when they carry hazardous materials such as explosives, petroleum and liquified natural gas, radioactive substances, and other dangerous chemicals. According to the federal Bureau of Motor Carrier Safety, truck crashes with hazardous materials involve 22 percent more fatalities and 61 percent more property damage per crash than other truck crashes.

Rigorous enforcement of federal and state motor carrier safety laws can help reduce the safety risks posed by big trucks, but too often state and federal enforcement efforts are not adequate. As a result, too few of the Nation's trucks are actually inspected. In New York City, which has one of the most active truck inspection programs in the country, enforcement authorities indicate that only one of four or five trucks on the region's expressways are being checked. In states where inspections are frequently conducted, numerous safety violations are uncovered. Of the approximately 250,000 trucks inspected in California in 1984, 22 percent were taken out of service because of serious mechanical defects. Only 20 percent were in full compliance with driver and vehicle regulations. Only 5 percent of trucks and drivers inspected in Colorado in 1985 were in compliance with all applicable motor carrier safety regulations.

The Office of Technology Assessment found that almost 40 percent of the heavy trucks involved in accidents are not subject to federal regulation. Federal motor carrier safety regulations apply only to interstate truck transportation and not to trucks operating within a single state (although a state may adopt the federal motor carrier regulations). Further, motor carriers operating within the Interstate Commerce Commission's (ICC) commercial zone are exempt from motor carrier fitness tests and tests of insurance availability, although exempt carriers are subject to Department of Transportation safety audits. Recently, the Interstate Commerce Commission proposed a significant expansion of the exempt commercial zone. Although carriers operating within the exempt commercial zone will still be subject to DOT regulation, the expansion of the commercial zone will make it much more difficult for the Department to perform its safety enforcement function. In other words, in order to perform safety audits, the Department of Transportation must first locate the motor carrier. Exempt carriers do not have to register with the Interstate Commerce Commission and are, therefore, much more difficult to locate. If enacted, the proposed ICC change would substantially reduce the number of carriers which must register with the Commission and substantially increase the number of carriers that are difficult to locate.

HIGHWAY CONDITIONS

NAGHSR's second major concern is that if trucks are given the relative unlimited access proposed by the legislative and regulatory initiatives, then they would frequently be traveling on roads that are not built to the maximum safety standards and roads that are in a deteriorated condition.

Poor highway conditions can exacerbate the safety hazards posed by bigger, heavier trucks. According to the recent National Council on Public Works Improvement report, Fragile Foundations, 25.7 percent of urban and rural interstate pavement was deteriorating or deteriorated. The pavement condition on the primary, secondary, and urban systems was even worse than that of the interstate system, despite the fact that the noninterstate systems have a lower standard of deterioration by which they are measured. In 1986, according to the Federal Highway Administration's report, Status of the Nation's Highways, 14.3 percent of the interstate bridges were classified as being deficient, 28.2 percent of the bridges on the arterials were deficient, and 38.9 percent of the bridges on the collector roads were deficient. Given the declining level of investment by all levels of government in highway construction and improvement, it is unlikely that the quality of the Nation's roads—particularly the noninterstate roads—will improve in the near future. This, in turn, means

that inadequate road conditions will continue to be a major contributing factor to many truck crashes.

Furthermore, many noninterstate roads are not designed and engineered for large, heavy, and wide trucks. According to FHWA's Status report, 16.1 percent of major collectors and 39.6 percent of minor collectors have lane widths of 9 feet or less. Most 10-foot wide streets are residential or rural streets which do not have adequate shoulder widths and are not aligned properly to handle big trucks. Fifty-three percent of arterials and 89 percent of collectors have right shoulder widths of 6 feet or less, as noted in the FHWA report. Additionally, 10-foot wide streets are only 120 inches wide, leaving 102-inch wide trucks with a 9-inch clearance on either side. This amount of side clearance is not at all adequate, given the relative difficulty of maneuvering a twin trailer truck. The inadequate clearance problem is even more pronounced when a large vehicle, such as a school bus, passes a large truck from the opposing lane of traffic.

Most 10-foot roads are also not engineered to accommodate the large turning radii of the bigger, longer trucks when they undertake a turn. Studies conducted by the California Department of Transportation in 1983 indicate that when a twin trailer attempts to turn on a 10-foot wide street, it either goes on the curb or into the opposing lane of traffic as it turns.

Additionally, highway travel has increased significantly since 1983 and traffic congestion on all highway systems has correspondingly increased. Between 1983 and 1985, according to the FHWA Status report, the percent of peak-hour travel in urban areas that occurs under congested conditions increased from 54 percent to nearly 61 percent. This means that large trucks have to compete with other vehicles for a diminishing share of roadway space which may, in turn, cause an increase in the number of truck crashes that occur.

STATE AND LOCAL REGULATORY AUTHORITY

NAGHSR is also greatly concerned that the proposed regulatory and legislative initiatives would preempt state and local governmental regulatory authority over the use of roadways—regulatory authority which state and local governments legitimately and appropriately exercise. Under current law, state and local governments are responsible for regulating traffic, for controlling land use, and for protecting the safety of citizens who use state highways and local roads. Since state and local governments are most familiar with the travel needs and patterns of their citizens and the condition of their streets and roadways, it is entirely appropriate that they exercise this regulatory authority. To give large trucks access to roads which states and localities have already been designated as unsafe is counterproductive and is a usurpation of legitimate state and local regulatory authority.

Furthermore, such preemption is in conflict with the President's Executive Order on Federalism, which was signed last October 28. Section 4 of the Executive Order prohibits executive branch agencies from issuing regulatory initiatives preempting state and local authority unless there is clear statutory authority to do so. If there is clear statutory authority, executive agencies are required to restrict regulatory preemption to the minimum level necessary to achieve the objectives of the statute. In any case, executive agencies are required to consult, to the extent practicable, with states and relevant associations in order to avoid conflict between state law and federal interests that are within the jurisdiction of the executive agency.

Section 6 of the Executive Order requires executive branch agencies to examine the cost impact of their proposed policies upon states, to identify potential sources of funding for the states for purposes of policy implementation, and to evaluate the impact of the policies upon the states' ability to perform their traditional functions. NAGHSR strongly believes that broadened truck access would greatly accelerate the deterioration of roads not designed for the larger trucks and would force state governments to expend larger amounts of money for road repair and rehabilitation than they presently do. This would be especially difficult for the states to do since most are under intense pressure to finance more and more services and functions from a shrinking resource base and since federal highway assistance to states has been substantially reduced over the last few years.

We also strongly object to the proposed regulatory and legislative language which would, in the case of a contested road segment, shift the burden of proof from the complainant back to affected state or locality. Again, we believe that states and localities have legitimate authority to regulate the use of their streets and highways, and thereby, have the right to decide whether a road should or should not be accessible to large trucks. To shift the burden of proof to the states and localities would

be both inappropriate and a usurpation of legitimate state and local regulatory authority.

TRANSPORTATION RESEARCH BOARD STUDY

As the Committee is aware, Section 158 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (P.L.100-17) authorized the Transportation Research Board of the National Academy of Sciences (NAS) to study a number of issues relating to truck size and weight, including the issue of access to roads that are not part of the designated truck network. Report language in the 1988 appropriations legislation for the Department of Transportation expedited the funding of the NAS study, which is now scheduled to be completed in early spring of 1989.

NAGHSR believes that the federal government should take a balanced approach to truck access—one which carefully weighs the productivity needs of the trucking industry against the safety concerns of states and localities. We feel that the National Academy of Sciences will take an objective, analytical approach to this issue and will make every effort to incorporate the perspectives of both the state and localities as well as the trucking industry into the report. The NAS study, we believe, will make a major contribution to the debate on truck access. We strongly recommend, therefore, that the NAS study should first be completed and the results considered before any substantive changes are made in the laws and regulations governing motor carrier access.

The National Association of Governors' Highway Safety Representatives appreciates this opportunity to presents its views and ideas on this important and sensitive issue.

STATEMENT OF ROSS SANDLER, COMMISSIONER, NEW YORK CITY DEPARTMENT OF TRANSPORTATION

The Surface Transportation Assistance Act of 1982 ("STAA" or "the Act") authorized the designation of a national network of highways which would be opened to large dimensioned, *i.e.*, long and wide, trucks and combinations. The Act also required States and localities to grant such vehicles reasonable access to terminals and to food, fuel, rest and repairs not located on the network.

Currently, the designation of which facilities constitute "terminals" and the meaning of "reasonable access" are determinations left to the States. In promulgating its regulations for implementing the STAA, the U.S. Department of Transportation ("U.S. DOT") expressly rejected the use of national definitions of these terms in recognition of the broad differences in road characteristics throughout the country. The productivity gains for the trucking industry contemplated by the STAA appear to be unhindered by the retention of local safety controls which have been set by state governments.

Notwithstanding the current scheme whereby the States designate terminals and access routes, Congress recently authorized a study by the Transportation Research Board of the National Academy of Sciences (the Board) of issues of truck size and weight (Section 158 of the Surface Transportation and Uniform Relocation Assistance Act of 1987). Should the study conclude that uniform definitions are preferable to local control, and U.S. DOT incorporates this conclusion in its regulations, many areas of the country, particularly large urban areas with older roads, are likely to suffer diminution in safey.

We believe that public safety should be the foremost concern in formulating guidelines for reasonable access, receiving priority over any economic or other elements. We have recommended that the Board focus on the different physical limitations of the states and localities; what is reasonable for one area may be unworkable in another. With respect to the definition of a "terminal," while it may be possible to formulate a uniform, nationwide definition, we have urged the Board to acknowledge regional differences. Finally, we have recommended to the Board that states and localities be empowered to control such access to the greatest possible extent.

New York City, like other older urban centers, presents a unique situation regarding the interstate highways. Unlike most of the country, in the main our interstate roads were not built during the creation of the Interstate system, but rather were grandfathered into the system. These older roads thus are substandard in comparison to the majority of roads in the system with respect to lane width, turning radii, on/off ramps, etc. Access routes connecting with our Interstate are comparably lacking in modern design features needed to safely accommodate oversized vehicles. The condition of the City's local streets generates safety concerns of equal if not greater magnitude.

The trucking industry has not unexpectedly challenged our safety arguments. There is insufficient data, however, to support a conclusion that large trucks, tandems in particular, are able to operate safely on the City's local roads and streets. On the contrary, at least one recent study has concluded that tandems are likely to have more, and more serious, accidents than other trucks. See Stein and Jones, Crash Involvement of Large Trucks by Configuration: A Case—Control Study, 1/87, Insurance Institute for Highway Safety.

In sum, we are concerned that the ability of the States and localities to retain control over the definition of terminals and reasonable access may be lost. Public safety must continue to be the foremost consideration in formulating guidelines for reasonable access and regional differences must be acknowledged when defining terminals. The City urges Congress to monitor the Board study and assure that any recommendations made and subsequent actions taken by the U.S. DOT adequately consider the special safety factors of the older urban centers whose roads were not designed to accommodate oversized vehicles.

STATEMENT OF J. TERRY TURNER, EXECUTIVE DIRECTOR, INTERSTATE CARRIERS CONFERENCE

I. RESPONDENT'S IDENTITY

The Interstate Carriers Conference is the national trade association representing the irregular route common and contract truckload motor carrier industry in the United States. The Conference represents more than 600 truckload carriers nationwide, carriers that are domiciled in every state except Alaska and Hawaii. The membership serves all 48 contiguous states plus Alaska and all Canadian provinces.

The Conference is affiliated with the American Trucking Associations and endorses ATA's testimony before this subcommittee.

The Conference has consistently demonstrated a strong commitment to matters of motor carrier safety, and considers its testimony today wholly in keeping with this record.

In addition to supporting major Congressional and regulatory trucking safety efforts, the Conference currently promotes a number of internal programs that far exceed government safety mandates.

For instance, the Conference is currently promoting and financially supporting efforts of the Professional Truck Driver Institute of America (PTDIA) to substantially strengthen the training standards for truck-driving schools across the United States. The Conference is also initiating a truck-driver apprenticeship training program with the Department of Labor to ensure quality on-the-job driver training upon completion of formal truck driving school training. The Conference supports these programs notwithstanding the fact that a well-documented and increasing driver shortage may lead one to asume that the industry would be seeking more lax rather than more stringent driver-training standards in the future.

Similarly, the legislation the Conference endorses today is a measured and equitable piece of legislation that places a premium on safety considerations.

II. NEED FOR ACCESS LEGISLATION—A MINORITY OF STATE LAWS CURRENTLY BURDEN THE FLOW OF INTERSTATE COMMERCE

Since the 1982 passage of the Surface Transportation Assistance Act (STAA), truckload motor carriers have been placed in the unproductive and inequitable position of dealing with 50 state governments and countless local governments in trying to deliver the nation's goods to the consuming public. The roadblocks established by government at all levels relate to when and where STAA-mandated equipment, in particular tractor-trailer combinations utilizing 48' x 102" trailers, can deliver the goods that keep this country moving. The STAA Act legalized the 48' x 102" trailers, but did so in such a manner that the states and local government were left with virtually unlimited discretionary powers to determine when and where a 48' x 102" trailer could be used to load, linehaul, and deliver freight.

Consequently, the trucking industry, most especially the irregular route truckload carrier that does not operate on a conventional terminal-to-terminal basis, has not achieved the productivity gains held out as an inducement to support the STAA legislation, with its higher heavy vehicle use taxes (and related increased fuel taxes earmarked for the HIghway Trust Fund).

While the mechanics of the truckload segment of the trucking industry may not be familiar to the vast majority of the American public, truckload carriers fill a critical need for prompt, direct freight delivery that the American public has come to

rely on. In fact, the truckload segment of the industry moves more freight than any other form of motor transportation. An irregular route truckload carrier cannot change equipment at state borders or breakdown loads at state borders as do less-than-truckload operations. By marketplace definition, a truckload carrier loads at one point and unloads at a second point with nothing in between except the line-haul.

Many truckload carriers have entered the trucking business since the trucking industry was largely deregulated in 1980. Operating on small profit margins, these carriers simply cannot remain in business if they are unable to operate 48′ x 102″ trailers within and across all state borders.

Certain states such as New York, Pennsylvania, and Massachusetts have instituted cumbersome and time-consuming schemes whereby carriers must request permits from the state Department of Transportation to gain "reasonable access" to state highways that connect the National Network to points of loading and unloading. The critical economic advantage available to truckload carriers is this ability to respond to a shipper's request at a moment's notice. This request may be in the nature of a one-time delivery at a certain place of business. Clearly, it is not reasonable for a truckload motor carrier to submit to a lengthy permit process for each and every delivery order in a particular state.

In addition, other states have instituted a variety of restrictions that jointly impede the flow of interstate commerce. In George, tractor-semitrailer lengths are limited to 60 feet off the designated highway system. Alabama and New Jersey restrict certain STAA-approved vehicles off the National Highway Network to one and two miles, respectively.

III. S. 1391 IS A BALANCED AND EQUITABLE BILL

S. 1391 is a narrowly tailored piece of legislation required only because the Federal Highway Administration has failed to promulgate reasonable guidelines to the states. It is designed not to pre-empt states' rights, but to allow for liberal local and state input. Specifically, S. 1391 takes a common-sense approach to the access problem by creating a continuum whereby the narrower the road the stronger the presumption that long and wide trucks should be prohibited; the wider the highway the stronger the presumption that trucks should be granted access. Although width of a road is not the only factor affecting the easy by which a 49′ x 102″ trailer can be safely accommodated, it is clearly a major factor.

S. 1391 draws and expands on the formula already established in the 1982 STAA. In the 1982 Act, a presumption was made that STAA approved equipment should be granted access to the nation's National Primary Network system, which includes the interstate highway system and major designated state highways. The states, however, were given the power to demonstrate to the Federal Highway Administration (FHWA) that such access should be denied or restricted in some manner if valid safety concerns can be shown. States have successfully exercised this power, and this provision has been an important safety component of the STAA.

Similarly, S. 1391 sets presumptions rather than rigid rules. State highways with lanes 10 feet or wider that connect the National Network to points of loading and unloading would be presumed fit for STAA-approved vehicles. This presumption would be subject to rebuttal by either state or local government.

Specifically, state and local governments would be granted the opportunity to demonstrate through clear and convincing evidence that a particular route required vehicle restrictions. In reaching this conclusion, the state or local government would be required to consider the following four factors: 1) the effect of such a restrict on neighboring communities and states that might be affected; 2) the burden on interstate commerce; 3) whether an alternative route exists, is as safe, and is not unduly circuitous; and 4) whether facilities for fuel, repair, food, and rest are regularly available on the alternative route.

Sure it is fair and reasonable to require local and state governments to weigh these four common-sense factors before reaching a final conclusion as to the safety of a state highway with 10-foot lanes for 48′ x 102″ vehicles. Even with these four required factors, state and local governments possess in S. 1391 a strong and important safety valve to prevent STAA-approved vehicles from gaining access on unsafe roads.

Furthermore, S. 1391 would reverse the preumption for state highways with lanes less than 10 feet wide. In this case, it would be the motor carrier that would have to demonstrate that despite the narrowness of the road, STAA-approved vehicles could be safely accommodated.

In summary, the "reasonable access" provisions of this bill create a sliding scale of presumptions in which the interests of local, state and federal governments can be reasonably accommodated.

Finally, S. 1391 defines "terminal" as "any facility where freight is loaded or unloaded or where a commercial motor vehicle subject to this chapter is manufactured or regularly maintained." While the definition is more expansive than that adopted by some states, it is necessary in order to accommodate an entirely legitimate and important component of the trucking industry—full truckload carriers. As mentioned previously, truckload carriers transport goods directly from the docks of a shipper to the docks of the particular receiver. Therefore it is not practical for this type of carrier to travel interstate in one type of vehicle, and then to transfer, or break bulk before final delivery in a similar vehicle.

This bill breaks no new ground because the 1982 Act already allows STAA-approved vehicles unlimited access to points of "loading and unloading" for household goods carriers. Clearly, the truckload carrier is much less likely to travel through residential neighborhoods than household goods carriers, and therefore, the truckload carrier presents less risk to the public.

SUMMARY

The Interstate Carriers Conference commends the Senate Commerce Subcommittee on Surface Transportation for holding this hearing of critical importance to the trucking industry, and thanks the Subcommittee for its opportunity to submit remarks.

The trucking industry has not to date received the benefits of increased productivity agreed to in the STAA of 1982. S. 1391 is a reasonable and balanced bill designed to correct this flaw, and bring the intent of the Act to fruition. The Interstate Carriers Conference urges Commerce Committee support for S. 1391.

THE
NATIONAL
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LEAGUE

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EXECUTIVE VICE PRESIDENT
James E. Bartley
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Office of the Executive Vice President

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April 20, 1988

The Honorable J. James Exon
Chairman
Subcommittee on Surface Transportation
Committee on Commerce, Science
and Transportation
United States Senate
SH-428 Hart Office Building
Washington, DC 20510

Dear Chairman Exon:

The National Industrial Transportation League respectfully offers the following comments for the subcommittee's April 21 hearing record on STAA access issues.

The League is a voluntary association of shippers, shippers' associations, boards of trade, chambers of commerce, and other entities concerned with the purchasing of freight transportation services. It is the only nationwide organization representing shippers of all sizes and commodities using all modes of transportation to move their goods in intrastate, interstate, and international commerce. Its members, directly or indirectly, are responsible for the routing of about 80 percent of the nation's commercial freight.

The League supported enactment of the Surface Transportation Assistance Act, and commends you for introducing S. 1391, which would help to realize the productivity gains promised to shippers and carriers by the 1982 law.

When the STAA was enacted, the Congress promised shippers and carriers use of more efficient truck equipment in return for their support of a 5 cent per gallon increase in the federal fuel tax. While shippers and carriers have been paying this tax, they have not received the full extent of productivity benefits which were meant to offset this tax increase.

The failure to keep this promise is mostly the result of the Federal Highway Administration's decision not to take a strong leadership role with those states who are resisting this change. We would note there are no demonstrated safety reasons for justifying the states' actions.

The League is grateful that you have recognized that shippers and carriers have not received what they were promised in the STAA. We fully support and would urge prompt action on your legislation.

This support recognizes the limitation placed last year on the Department of Transportation, which prevents it from adopting a final rule on this issue until after the National Academy of Sciences study is completed. However, we believe that enactment of S. 1391 would change the tenor of this debate so that attention is focused on the real issue of increased productivity. If we are to assure the continuing marketability of U.S. goods in domestic and international commerce, then we must take the necessary steps to eliminate, wherever possible, those impediments which needlessly add to the cost of producing and distributing them.

The League appreciates this opportunity to present the views of the shipping community. It looks forward to working with you and your staff on this important transportation issue. If you have any questions or wish to discuss the matter further, please do not hesitate to contact me.

Sincerely,

James E. Bartley

James E. Bartley
Executive Vice President

WERNER ENTERPRISES, INC.

SPECIALIZED CARRIER

I-80 & Hwy 50 · P.O. Box 37308
OMAHA, NE 68137

OFFICE
402
895-6640

4/19/88

Sanator J. James Exon, Chairman
Surface Transportation Sub-Committee
The Senate Commerce Science & Transportation Committee
S D - 508
Washington, D.C. 20510

Dear Senator Exon:

I Would like the following commets to be made part of the hearing transcript on "truck access". I am licensing consultant for Werner Enterprises Inc. at 14507 Frontier Rd.; Omaha, Nebraska (phone 402-895-6643 or 800-228-2240). Werner Enterprises Inc. is an interstate carrier servicing customers throughout the entire continental United States and at this time operates 1,400 tractors and 3,000 trailers.

At this time I will address only the access problems we are experiencing in the state of Massachusetts. On April 15, 1988, I spoke with Mr. Charles Aznavoorian at the Massachusetts permit department to confirm the following statement. The legal length for a semitrailer off of the National Network in Massachusetts is 45ft. A permit of $50.00 may be obtained for each 48ft. semitrailer however if the overall length exceeds 60ft. the permit is not valid and the carrier is subject to a $100.00 fine. This permit allows for one intermediate stop per trip within Massachusetts. Which necessitates leaving the state before picking up a load if the driver has entered the state to deliver a load. Mr. Aznavoorian stated there is no provision for reasonable access off of the National Network for food, fuel, rest, terminal or to service a customer if the overall length of the tractor and semitrailer exceed 60ft. Werner Enterprises Inc. had designated fuel stops in Massachusetts one of which was Mass #10 Truck Stop at I-90 and exit 10 which is approximately ½ mile off of I-90. In March 1988 we were forced to eliminate Mass #10 from our fuel stop list due to the $100.00 citations our drivers were being issued when they pulled off of I-90 to fuel at The Mass #10 Truck Stop. Mr. Aznavoorian stated that if a truck was over 60ft. it would be cited the minute it pulled off of the interstate ramp. A statement which has proven true. At this time we do not have any designated fuel stops in Massachusetts.

If we are able to limit the overall length of the tractor and semitrailer to 60ft. it would be necessary to purchase the $50.00 permit for each trailer in our fleet. The annual cost of which would be $150.000.00. Plus we would also have the one intermediate stop within the state to comply with, another serious cost effective factor.

The lack of reasonable access in Massachusetts in particular and throughout the United States is a matter of great concern to the reasonable flow of interstate commerce to transmit our nation's products from manufacturer to the customer and also the ability to obtain fuel, food and rest for our nations truck drivers.

I respectfully ask that your committee inform me of future developments in respect to this issue and what further steps may be taken to resolve this issue.

Sincerely,
WERNER ENTERPRISES INC.

Val Loftis

Val Loftis
Licensing Consultant

FLORIDA DEPARTMENT OF TRANSPORTATION
BOB MARTINEZ
GOVERNOR
605 Suwannee Street, Tallahassee, Florida 32399-0450, Telephone (904) 488-8541
KAYE N. HENDERSON
SECRETARY

June 7, 1988

Honorable J. James Exon, Chairman
Subcommittee on Surface Transportation
Senate Committee on Commerce, Science
and Transportation
SH-428 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Exon:

Regarding the Surface Transportation Subcommittee hearing, held on May 25, 1988, on reauthorization of the Local Rail Service Assistance (LRSA) Program, the following statement is submitted for inclusion in the hearing record.

The Florida Department of Transportation strongly supports reauthorization of the LRSA Program. In the last several years plant rationalizations by CSX Transportation, Incorporated (CSXT) have resulted in the formation of four new shortline railroads in Florida: the Florida Central Railroad, the Florida Midland Railroad, the Florida West Coast Railroad, and the Seminole Gulf Railroad. Because CSXT had anticipated either abandoning or selling these lines to shortline operators, the tracks were allowed to deteriorate, in many cases to marginal FRA Class 1 standards. The new shortline operators are now faced with the cost of upgrading these lines to improve level of service and attract the additional business necessary for their successful operation.

The Department estimates the cost of upgrading these rail lines to minimum FRA Class 2 standards at $7.5 million. This includes both track maintenance, and repair or replacement of critical bridges. This work is needed immediately. Since the state is constitutionally prohibited from funding these projects with state funds, we must continue to rely on the LRSA Program.

The Florida Department of Transportation already has rehabilitated four rail lines in the state totaling approximately 70 miles at a cost of $7.7 million. Of this amount, $4.7 million was provided through the LRSA Program, with the remainder provided by the railroads. Two of the lines would have been abandoned if not rehabilitated using LRSA funds. The rehabing of the other two lines has stimulated substantial growth at two of the state's gulf coast ports. Future projects will be funded in part by repayment of LRSA funds from one of the participating railroads.

Presently, the only source of funds to undertake future rail rehabilitation projects is the repayment of LRSA funds as noted above. This, however, will provide only $2.0 million, far short of the Department's minimum requirements for the next five years. Therefore, the Department not only supports reauthorization of the LRSA Program, but also an increase in funding levels to maintain a viable rail system in Florida.

The Department sincerely appreciates the opportunity to comment on reauthorization of the LRSA program. If any further information is needed, please feel free to contact me at your convenience (904/488-3054).

Sincerely,

Nick Serianni
Director of Federal Programs

AMC

CHARLES C. IRIONS
Major General, USAF (Ret.)
President

May 4, 1988

The Honorable J. James Exon
Chairman, Subcommittee of Surface Transportation
Committee on Commerce, Science and Transportation
United States Senate, SD-508
Washington, DC 20510

Re: Sucommittee on Surface Transportation
Hearing, April 21, 1988, on Access
for STAA Authorized Trucks

Dear Senator Exon:

On behalf of the American Movers Conference (AMC), I want to thank you for holding the recent hearing on access to and from the National Network and to express our support for Congressional action to insure that the states allow all vehicles authorized by the Surface Transportation Assistance Act of 1982 (STAA) the level of access to their terminals that Congress intended. This access to terminals is necessary to yield the increased productivity benefits possible from the larger vehicles approved by the STAA.

The AMC is a national trade association representing the household goods moving industry. AMC is comprised of nearly 1500 members and represents all facets of the industry, including large van lines, small and medium sized independent carriers, carrier-agents and local agent movers, in addition to state associations and suppliers. AMC is affiliated with the American Trucking Associations (ATA). These comments are being submitted in support of the position expressed by the ATA.

Your hearing confirmed that several states' laws so unreasonably restrict the access of the majority of STAA approved vehicles to and from the National Network that a Federal definition of "terminal" and minimum state access provisions are needed. These minimum standards could be provided either by the Federal Highway Administration (FHWA) in a rulemaking or by Congress in a statute.

While the FHWA has commenced a proceeding on this issue, docket No. 87-1, the hearing testimony of Mr. Richard Landis, Associate Administrator, Office of Motor Carriers, Federal Highway Administration, confirmed that FHWA had not published a Notice of Proposed Rulemaking and did not intend to issue final rules until after the Transportation Research Board, which is studying the access problem, issues its final report. That report is not due until July 1989.

In light of length of time FHWA projects before it will take action to relieve the current burden imposed by the states on interstate commerce, we support Congressional passage of S. 1391, as well as the companion bill in the House of Representatives, H.R. 2697. We join with the ATA in urging that the full Committee act swiftly to favorably report S. 1391 as drafted.

As you know, the moving industry has always been treated separately from other segments of the trucking industry because of the individual consumers it serves and the requirement to provide door-to-door service on household good moves. In particular, subsection (a) of section 412 of the STAA, 49 U.S.C. 2312, prohibits the states from denying household goods carriers reasonable access to all "points of loading and unloading." While S. 1391 does not propose changing section 2312(a), I merely want to caution you against changing the existing law in any way that might undermine this statutory provision. Continued access to shippers' locations in residential and commercial areas is critical to the continued successful operation of the household good moving industry.

In conclusion, AMC supports amending the STAA by adding a Federal definition of "terminal" and "reasonable access" so long as those changes do not restrict the existing broader statutory right of household goods carriers to access all points of loading and unloading.

Respectfully submitted,

AMERICAN MOVERS CONFERENCE

Charles C. Irions
President

GEORGE DEUKMEJIAN
GOVERNOR

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(202) 347 6891

May 10, 1988

Ms. Sheryl W. Washington
Professional Staff Member
Surface Transportation Subcommittee
Senate Committee on Commerce, Science
and Transportation
428 Hart Senate Office Building
Washington, D.C. 20510

Dear Ms. Washington:

The California Department of Transportation regrets it was unable to testify at the Committee's April 21 hearing on Reasonable Access of Motor Carriers to the Designated Highway System.

Since this is an extremely important issue to our state and several questions were raised about California's access policies, we respectfully submit the following comments for the record regarding the testimony received by the committee.

We very much appreciate your willingness to consider and incorporate these comments into the hearing record. We would also be very pleased to provide the committee with any additional information and documentation it would find useful in considering the question of reasonable access.

Sincerely

Kathleen F. Hoffman
Washington Representative
California Department of Transportation

I. Comments Regarding the Testimony of Thomas J. Donahue, President of the American Trucking Asociation

Mr. Donohue cites on page 4 three ways in which states have resisted the operation of STAA vehicles:

- o A very small designated primary highway system.
- o Restrictive definition of terminal.
- o Restrictive definition of reasonable access.

These three problems do not apply to California. STAA vehicles are allowed on all state highways that can safely accomodate them. Highways were included in our designated network on the basis of extensive engineering surveys carried out by Caltrans engineers on all the routes initially proposed by Federal Highways for inclusion in the network. In February of last year Caltrans completed another survey of our entire state highway system to verify the routes that could safely accomodate STAA vehicles. Analyses of lane widths, turning radii at curves and interchanges and volume of traffic were among the factors included in Caltrans' assessment of our highway system.

Mr. Donohue's statement on page 8, describes 34 states as having "... either unrestricted access for STAA authorized vehicles or broad enough mileage-based access provisions so that virtually all shippers and receivers can be reached by these more productive trucks, except where clear safety problems exist."

California's mileage-based access policy exactly fits this description. It is safety based but broad enough to permit STAA trucks to reach shippers and receivers. The only restrictions on the state highway system occur where safety would be compromised according to engineering surveys.

Mr. Donohue's statement on page 11 regarding California legislation is inaccurate. He characterizes recent California legislation as appearing "... to have opened the door to similar designated access routes for some STAA authorized semitractors." This is not the case. California does not treat one type of STAA vehicle differently from any other type of STAA vehicle.

Cities and counties are permitted by state law to do their own review of the routes under their jurisdiction and control. If these routes can safely accomodate STAA vehicles, they are required to sign or issue permits approving access. In doing the route reviews, California localities have been offered, extensive technical assistance by Caltrans engineering staff. In fact, Caltrans held more than 20 technical workshops throughout the state to brief local public works directors on federal and state access requirements and the engineering techniques to do accurate route safety reviews.

Finally, the dscription of California's access policies included on the first page under Selected State Access Restrictions is misleading. The state does not limit terminal access to a fixed distance. The half mile limitation applies only to food, fuel, rest, and repair facilities which are readily available along California's state highway system. In effect, all state highways are available to STAA vehicles if they can move over the routes safely.

II. Comments on the Testimony of Thomas R. Stedman representing the National Private Trucking Association (NPTA)

On page 6 Mr. Stedman cites California as one of 5 states in which NPTA members are having significant problems in obtaining reasonable access. Yet there is no mention of a specific problem in California in his entire sixteen page testimony.

California applauds Mr. Stedman's statement on page 13 that "... NPTA is not suggesting that STAA vehicles can safely be operated on every highway." This is our view as well, and we have done the necessary technical reviews to support any safety based restrictions on our state highway system.

III. Comments on the Testimony of Duane Acklie, President of Crete Carrier Corporation

Mr. Acklie states on page 4 of his testimony that he is also concerned about "... legislation in the state of California which appears to authorize each municipality the right to issue permits and change fees for the new sized trailers operating through the municipalities. We will soon have municipal toll gates in addition to state toll gates."

The gentleman's fears of municipal toll gate in California are not based on fact. California law allows cities and counties to issue permits, but State law also limits the charges for any permit to the administrative cost of issuing the permits. However, local agencies have been strongly encouraged rather than issuing permits, to review routes and post signs ahead of time at their own expense (as has been done on the entire State highways system) at no cost to the industry.

On page 7 Mr. Acklie describes S. 1391 as based on the principle that "state highway with lanes 10 feet or under that connect the National Network to terminals would be presumed fit for STAA approved vehicles. This presumption would be subject to rebuttal by either state or local governments."

California questions this presumption. We have reviewed all state highways and have proven this false. A thorough engineering review of the geometrics, turning radii and traffic volumes of the entire system is the basis for our choice of roads that can safely accomodate STAA vehicles. We also do not accept the assumption that Congress views roads with 10 feet lane widths as necessarily suitable for large truck traffic. If this were so, the STAA of 1982 would have clearly indicated that these roads should be uniformly accessible to the larger trucks rather than calling for a network of highways to be designated by the states.

IV. Response to a Comment Concerning California by Gaile R. Deileman, General Mills Corporation, during a Question and Answer Discussion.

Mr. Deileman indicated that his company had been told to pay $50,000 to have a potential access route surveyed. California law does not allow the trucking industry to be charged for a route safety review. However, if such a figure is correct, it clearly shows the costs to state and local governments of protecting the general public and the trucking industry from the dangers of STAA vehicles operating on roadways that cannot safely accomodate them.

APPLE LINES INC.
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TELEPHONE 605-256-6661

April 18, 1988

Senator Larry Pressler
411 Russell Senate Office Building
Washington, D.C. 20510-4101

Dear Larry:

As the Third Vice President of the Interstate Carriers Conference of the American Trucking Association, I have been part of an effort to generate recognition by Congress with respect to the problems our industry experiences relative to the access issue resulting from the Surface Transportation Assistance Act.

I'm sure you are aware that several states presently restrict access to many of their federally funded highways based on rules and regulations which they have promulgated within their individual legislatures or state regulating agencies. The withholding of this access has created significant and severe economic hardships on our industry and many times has created an environment in which service provided by our members has been rendered at an extremely high cost and inconvenience.

Reality reveals that STAA, contrary to providing the opportunity for increased productivity, has, in many instances, created obstacles and economic expense which have been borne solely by the carrier because of the extreme competitive environment which exists within this segment of the transportation industry.

The trucking industry agreed to higher fuel taxes and an increase in heavy vehicle use taxes in return for uniform access for equipment authorized under the STAA, yet we remain confronted with a hodge-podge of state access requirements that limit uniform accessibility to deliver the nation's goods.

We are constantly confronted with the patchwork of access provisions which are unworkable because of the nature of our business. We cannot breakdown our equipment to meet differing state requirements every time we cross a state border.

We must deal with states such as Georgia, where a 60-foot length requirement off the designated system, make it very difficult for truckload carriers to deliver their freight.

New York and Pennsylvania limit accessibility on a case-by-case basis with each truck driver required to carry an approved "book" of access points to determine if he can legally serve a customer. Finally, you have Massachusetts where access is limited unless you pay a $50 per trailer permit fee, which is certainly contrary to Congress' intent to provide an environment for the free flow of commerce.

Senator Exxon has agreed to hold hearings on April 21st relative to these concerns. I believe that many of the onerous conditions which motor carriers are confronted with will be expressed and demonstrated at these hearings and I would sincerely hope that you would be in a position to place yourself in a posture of availability to attend these hearings.

Trucking is a very critical element to the commerce of the State of South Dakota. Not only does trucking fulfill the daily transportation needs of the citizens of the state, but it carries to and from the people of South Dakota the goods which they require from all the 47 other states in the Continental United States.

The trucking industry needs the ability to operate in the environment promised by STAA in order to provide an economical and safe service to the people of South Dakota as well as the country.

The country, South Dakota and our industry need your support in correcting the problem which has been allowed to develop and I respectfully request your support in overcoming the problems with which our industry is confronted.

In closing, I have enclosed several documents which may be of interest to you in evaluating the problems outlined in this letter. The first is the Summary of Size and Weights, as of January 1988, which depicts the problems our industry experiences when dealing with the several states which maintain standards below that outlined in STAA. Additionally, I have enclosed a Procedure For Securing Access Route Designation which outlines in depth how a trucking company or any other user of motor carrier equipment qualifies to operate his equipment within the state borders of the State of New York. I've also enclosed a document entitled Pennsylvania's Legislated Approach For Implementing Federal Truck Size And Weight Requirements. The

complexity of this document and the formal requirements which it generates clearly creates a maze which would be monumental if all 48 states were to adopt such procedures.

South Dakota and the country needs the support of Congress to correct this monumental problem. The trucking industry has paid for more than it has received, and fairness should be recognized by those who are responsible for maintaining the bargain which has been struck.

If you have any questions concerning any aspect of this ongoing problem, please feel free to contact me personally and I will offer whatever information I have and that of the Interstate Carriers Conference. I thank you for your cooperation and support in this matter and look forward to visiting with you in the future.

Yours very truly,

APPLE LINES, INC.

Robert A. Appelwick
President

RAW:lc

Enclosures

National Solid Wastes Management Association

May 10, 1988

The Honorable Ernest F. Hollings
Senate Surface Transportation Subcommittee
428 Hart Senate Office Building
Washington, DC 20510

Dear Senator Hollings:

On behalf of the National Solid Waste Management Association, the national trade association representing 2800 private waste service firms, I want to express support for S 1391. I request that this letter be included as part of the April 21, 1988 official hearing record.

NSWMA members represent an important segment of the transportation industry. They manufacture, distribute, and operate specialized hauling vehicles and waste equipment that are used to transport general refuse, incinerator ash, and hazardous wastes throughout the nation.

During the past ten years, the transportation segment of the waste service industry has experienced significant changes, including skyrocketing tipping fees and longer hauls to the landfill or disposal facility. Further, it has been predicted that driver shortages will occur in the 1990s.

To meet these challenges, the waste service industry has started to use longer trailers to move cargo more safely and efficiently. However in order to justify the immense capital requirements for a changeover to these longer trailers, our industry must receive assurances that they will not be denied access from interstate highways to landfills, incinerators, treatment facilities, or disposal sites in the future. NSWMA believes that S 1391 will accomplish this goal.

Several years ago, NSWMA formed a Safety Committee which actively develops and disseminates information to industry and government in order to facilitate the safe transportation of wastes. As you proceed to address truck access legislation and other transportation and safety-related issues, NSWMA members and staff stand ready to assist you in any manner.

Sincerely,

Eugene J. Wingerter

Eugene J. Wingerter
Executive Director and
Chief Executive Officer

1730 Rhode Island Ave., NW Suite 1000 Washington, DC 20036 (202) 659-4613